

State of Iowa  
2001

**ACTS AND JOINT RESOLUTIONS**  
**(Session Laws)**

Enacted at the

**2001 REGULAR SESSION**

and the

**2001 EXTRAORDINARY SESSION**

of the

**Seventy-Ninth General Assembly**

of the

**State of Iowa**

HELD AT DES MOINES, THE CAPITAL OF THE STATE  
IN THE ONE HUNDRED FIFTY-FIFTH YEAR OF THE STATE

REGULAR SESSION BEGUN ON THE EIGHTH DAY OF JANUARY  
AND ENDED ON THE EIGHTH DAY OF MAY, A.D. 2001

EXTRAORDINARY SESSION HELD ON THE NINETEENTH DAY OF JUNE, A.D. 2001



Published under the authority of Iowa Code section 2B.10  
by the  
Legislative Service Bureau  
GENERAL ASSEMBLY OF IOWA  
Des Moines



# PREFACE

## CERTIFICATION

We, Diane E. Bolender, Director, Legislative Service Bureau, Leslie E. W. Hickey, Iowa Code Editor, and Joanne R. Page, Deputy Iowa Code Editor, certify that, to the best of our knowledge, the Acts and Resolutions in this volume have been prepared from the original enrolled Acts and Resolutions on file in the office of the Secretary of State; are correct copies of those Acts and Resolutions; are published under the authority of the statutes of this state; and constitute the Acts and Resolutions of the 2001 Regular Session and the 2001 Extraordinary Session of the Seventy-ninth General Assembly of the State of Iowa.

## STATUTES AS EVIDENCE

Iowa Code section 622.59 is as follows:

**622.59 Printed copies of statutes.** Printed copies of the statute laws of this or any other of the United States, or of Congress, or of any foreign government, purporting or proved to have been published under the authority thereof, or proved to be commonly admitted as evidence of the existing laws in the courts of such state or government, shall be admitted in the courts of this state as presumptive evidence of such laws.

## EXPLANATORY NOTES

*Temporary Code numbers.* CODE NUMBERS ASSIGNED TO NEW SECTIONS AND SUBSECTIONS IN THE ACTS ARE TEMPORARY AND MAY BE CHANGED WHEN THE 2001 IOWA CODE SUPPLEMENT IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 2001 Iowa Code Supplement.

*Typographic style.* The Acts and Resolutions in this volume are printed as they appear on file in the office of the Secretary of State. No editorial corrections have been made. Underlined type indicates new material added to existing statutes; strike-through type indicates deleted material. Italics within an Act indicate material that the Governor has item vetoed. Item vetoed text is also indicated by asterisks at the beginning and ending of the vetoed material. Superscript numbers indicate explanatory footnotes.

*Effective dates.* The Acts of the 2001 Regular Session took effect on July 1, 2001, unless otherwise provided. The Acts of the 2001 Extraordinary Session took effect on September 17, 2001, unless otherwise provided. See Iowa Code section 3.7. The date of enactment is the date an Act is approved by the Governor, which is shown at the end of each Act.

*State mandates.* Iowa Code section 25B.5 requires that for each enacted bill or joint resolution containing a state mandate (defined in section 25B.3), an estimate of additional local revenue expenditures required by the mandate must be filed with the Secretary of State. Section 2B.10(6) states that a notation of the filing of the estimate must be included in the session laws with the text of the bill or resolution. A dagger is placed at the beginning of the enacting clause and a footnote included for each enrolled Act which requires the estimate.

*Resolutions.* Concurrent resolutions and Senate and House resolutions are generally not included. See bound Senate and House Journals for adopted resolutions.

*Orders for legal publications should be addressed to the Department of General Services, Customer Service Center, Hoover State Office Building A-Level, Des Moines, Iowa 50319. Telephone 515-242-5120*





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# ELECTIVE OFFICERS

Name and Office County from which  
originally chosen

## GOVERNOR

THOMAS J. VILSACK ..... Henry  
John Norris, Chief of Staff ..... Polk

## LIEUTENANT GOVERNOR

SALLY J. PEDERSON ..... Polk  
Dawn Wilson, Senior Advisor to Lieutenant Governor ..... Polk  
Molly Culbertson, Special Assistant to Lieutenant Governor ..... Polk  
Jada Collier, Lieutenant Governor's Scheduler ..... Polk

## SECRETARY OF STATE

CHESTER J. CULVER ..... Polk  
Dean Lerner, Chief Deputy Secretary of State ..... Polk  
Bob Galbraith, Deputy of Elections and Voter Registration ..... Polk  
Joni Klaassen, Deputy of Administration ..... Polk

## AUDITOR OF STATE

RICHARD D. JOHNSON ..... Polk  
Warren G. Jenkins, Chief Deputy Auditor of State ..... Polk  
Judith A. Vander Linden, Deputy, Administration Division ..... Polk  
Tamera S. Kusian, Acting Deputy, Performance Investigation Division ..... Polk  
Andrew E. Nielsen, Deputy, Financial Audit Division ..... Polk

## TREASURER OF STATE

MICHAEL L. FITZGERALD ..... Polk  
Steven F. Miller, Deputy Treasurer ..... Polk  
Stefanie G. Devin, Deputy Treasurer ..... Polk  
Bret Mills, Deputy Treasurer ..... Polk

## SECRETARY OF AGRICULTURE

PATTY JUDGE ..... Monroe  
Brent Halling, Deputy Secretary ..... Dallas  
Mary Jane Olney, Administrative Division Director ..... Polk  
Daryl Frey, Laboratory Division Director ..... Polk  
Ronald Rowland, Regulatory Division Director ..... Polk  
James Gulliford, Soil Conservation Division Director ..... Polk  
Jeff Ward, Agricultural Development Authority Director ..... Polk

## ATTORNEY GENERAL

THOMAS J. MILLER ..... Polk  
Tam Ormiston, Deputy Attorney General ..... Polk  
Gordon Allen, Deputy Attorney General ..... Polk  
Julie Pottorff, Deputy Attorney General ..... Polk  
Douglas Marek, Deputy Attorney General ..... Story  
Eric Tabor, Chief of Staff ..... Jackson  
Dennis Johnson, Solicitor General ..... Polk

# GENERAL ASSEMBLY

"X" means First Extraordinary Session; "XX" means Second Extraordinary Session  
 Italicized county in District column denotes home county

## SENATORS

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Angelo, Jeff ..... Creston	Economic Developer .....	44th—Adams, Decatur, ..... Page, Ringgold, Taylor, <i>Union</i>	77, 78
Bartz, Merlin E. .... Grafton	Farmer/Laborer .....	10th—Cerro Gordo, ..... Mitchell, <i>Worth</i>	74, 74X, 74XX, 75, 76, 77, 78
Behn, Jerry ..... Boone	Farmer/Agribusiness .....	40th—Boone, Carroll, ..... Greene	77, 78
Black, Dennis H. .... Grinnell	Conservationist .....	29th—Jasper, Mahaska, ..... Marshall, Poweshiek	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Boettger, Nancy J. .... Harlan	Farmer/Former Educator .....	41st—Audubon, Harrison, Pottawattamie, <i>Shelby</i>	76, 77, 78
Bolkcom, Joe ..... Iowa City	.....	23rd—Johnson .....	78
Connolly, Michael W. .... Dubuque	School Administrator .....	18th—Dubuque .....	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Dearden, Dick ..... Des Moines	Retired .....	35th—Polk .....	76, 77, 78
Deluhery, Patrick J. .... Davenport	College Teacher .....	22nd—Scott .....	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Drake, Richard ..... Muscatine	General Farming .....	24th—Johnson, Louisa, ..... <i>Muscatine, Scott</i>	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Dvorsky, Robert E. .... Coralville	Job Developer, ..... Community-Based ..... Corrections	25th—Johnson, Linn .....	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Fiegen, Thomas L. .... Clarence	Bankruptcy Lawyer .....	20th—Cedar, Clinton, ..... Jones, Scott	None
Fink, William (Bill) ..... Carlisle	Teacher .....	45th—Marion, Warren .....	75, 76, 77, 78
Flynn, Tom ..... Epworth	Business Owner .....	17th—Delaware, <i>Dubuque</i> , Jackson	76, 77, 78
Fraise, Gene ..... Fort Madison	Farming .....	50th—Des Moines, <i>Lee</i> .....	71 (2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78



<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Freeman, Mary Lou ..... Alta	.....	5th—Buena Vista, ..... Cherokee, Clay, ..... O'Brien, Plymouth, ..... Pocahontas	75(2nd), 76, 77, 78
Gaskill, E. Thurman ..... Corwith	Farmer .....	8th—Hancock, Humboldt, Kossuth, Winnebago, Wright	77(2nd), 78
Greiner, Sandra H. .... Keota	Farmer .....	48th—Keokuk, Mahaska, Marion, Wapello, ..... Washington	75, 76, 77, 78
Gronstal, Michael E. .... Council Bluffs	.....	42nd—Pottawattamie .....	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Hammond, Johnie ..... Ames	Legislator .....	31st—Story .....	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Hansen, Steven D. .... Sioux City	Adjunct Instructor/ ..... Legislator/Property ..... Management	1st—Woodbury .....	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Harper, Patricia ..... Waterloo	Retired Educator .....	13th—Black Hawk .....	72, 72X, 72XX, 73, 75, 76, 77, 78
Holveck, Jack ..... Des Moines	Attorney .....	36th—Polk .....	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Horn, Wally E. .... Cedar Rapids	Senator .....	27th—Linn .....	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
<sup>1</sup> Houser, Hubert M. .... Carson	Farmer .....	43rd—Cass, Fremont, Mills, Montgomery, ..... Pottawattamie	75, 76, 77, 78
Iverson, Stewart, Jr. .... Dows	Farmer .....	9th—Franklin, Hamilton, Hardin, Wright	73(2nd), 74, 74X, 74XX, 75, 76, 77, 78
Jensen, John W. .... Plainfield	Farmer .....	11th—Black Hawk, Bremer, Butler, Grundy	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Johnson, JoAnn ..... Adel	.....	39th—Adair, Dallas, ..... Guthrie, Madison	76, 77, 78
Kibbie, John P. (Jack) ..... Emmetsburg	Farmer .....	4th—Clay, Dickinson, ..... Emmet, Kossuth, ..... Palo Alto	59, 60, 60X, 61, 62, 73, 74, 74X, 74XX, 75, 76, 77, 78
King, Steve ..... Kiron	Construction Contractor ...	6th—Crawford, Ida, ..... Monona, Sac, Woodbury	77, 78
Kramer, Mary E. .... West Des Moines	.....	37th—Polk .....	74, 74X, 74XX, 75, 76, 77, 78
Lamberti, Jeff ..... Ankeny	Attorney .....	33rd—Polk .....	76, 77, 78

<sup>1</sup> Elected in Special Election June 12, 2001

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Lundby, Mary A. .... Marion	Legislator .....	26th—Linn .....	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Maddox, Gene .....	Lawyer .....	38th—Dallas, Polk .....	75, 76, 77, 78
McCoy, Matt .....	Vice President — Industry Relations, Ruan .....	34th—Polk .....	75, 76, 77, 78
McKean, Andrew J. .... Anamosa	Lawyer/Innkeeper .....	28th—Jones, Linn .....	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
McKibben, Larry .....	Lawyer .....	32nd—Marshall, Story .....	77, 78
McKinley, Paul .....	Businessman .....	46th—Appanoose, Clarke, Davis, Lucas, Monroe, Van Buren, Wayne	None
<sup>2</sup> McLaren, Derryl .....	Farmer .....	43rd—Cass, Fremont, .....	74, 74X, 74XX, 75, 76, 77, 78
Miller, David .....	Attorney .....	47th—Jefferson, .....	78
Redfern, Donald B. .... Cedar Falls	Attorney .....	12th—Black Hawk .....	75(2nd), 76, 77, 78
Redwine, John .....	Hospital Administrator/ .....	2nd—Plymouth, Woodbury	77, 78
Rehberg, Kitty .....	Farmer .....	14th—Black Hawk, .....	77, 78
Rittmer, Sheldon .....	Farmer .....	19th—Clinton, Scott .....	74, 74X, 74XX, 75, 76, 77, 78
Schuerer, Neal .....	Restaurateur .....	30th—Benton, Black Hawk, Iowa, Tama	77, 78
Sexton, Mike .....	Farmer .....	7th—Boone, Calhoun, .....	78
Shearer, Mark .....	Communications .....	49th—Des Moines, Henry, Lee, Washington	73, 74, 78
Soukup, Betty A. .... New Hampton	Legislator/Realtor/ .....	15th—Chickasaw, Floyd, ...	78
Tinsman, Maggie .....	Social Worker/Legislator	21st—Scott .....	73, 74, 74X, 74XX, 75, 76, 77, 78
Veenstra, Ken .....	Insurance Agent .....	3rd—Lyon, O'Brien, .....	76, 77, 78
Zieman, Mark .....	Farmer/Owner — Cherry Valley Ent., Inc.	16th—Allamakee, Clayton, Fayette, Winneshiek	None

<sup>2</sup> Resigned May 17, 2001

## REPRESENTATIVES

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Alons, Dwayne ..... Hull	.....	5th—Sioux .....	78
Arnold, Richard ..... Russell	Farmer/Truck Driver .....	91st—Appanoose, Clarke, Lucas, Wayne	76, 77, 78
Atteberry, Andra ..... Manchester	Freelance Writer .....	27th—Black Hawk, ..... Buchanan, Delaware	None
Barry, Donna M. .... Dunlap	Farmer .....	82nd—Harrison, ..... Pottawattamie	76, 77, 78
Baudler, Clel ..... Greenfield	Retired State Trooper/ Farmer	78th—Adair, Guthrie, ..... Madison	78
Bell, Paul ..... Newton	Lieutenant — Newton ..... Police Department	57th—Jasper .....	75, 76, 77, 78
Boal, Carmine ..... Ankeny	Legislator .....	65th—Polk .....	78
Boddicker, Daniel J. .... Tipton	Electrical Engineer .....	39th—Cedar, Clinton, ..... Jones	75, 76, 77, 78
Bogges, Effie Lee ..... Clarinda	Retired Farmer .....	87th—Adams, Page, ..... Taylor	76, 77, 78
Bradley, Clyde ..... Camanche	Engineer .....	37th—Clinton, Scott .....	76, 77, 78
Brauns, Barry ..... Muscatine	Muscatine County Fair ..... Manager	47th—Johnson, Louisa, ..... Muscatine	75, 76, 77, 78
Broers, Roger A. .... Mason City	Farmer .....	19th—Cerro Gordo .....	None
Brunkhorst, Bob ..... Waverly	Computer Analyst .....	22nd—Black Hawk, ..... Bremer	75, 76, 77, 78
Bukta, Polly ..... Clinton	Retired Educator .....	38th—Clinton .....	77, 78
Carroll, Danny ..... Grinnell	Community Relations ..... Manager	58th—Jasper, Mahaska, ..... Marshall, Poweshiek	76, 77, 78
Chiodo, Frank John ..... Des Moines	Small Business Manager ...	67th—Polk .....	77, 78
Cphoon, Dennis M. .... Burlington	Special Education Teacher	100th—Des Moines .....	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Connors, John H. .... Des Moines	Retired Fire Captain .....	69th—Polk .....	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Cormack, Mike ..... Fort Dodge	Substitute Teacher/Youth Baseball Coach	13th—Webster .....	76, 77, 78
De Boef, Betty R. .... New Sharon	Farmer/Small Business ..... Owner	96th—Keokuk, Mahaska, Wapello, Washington	None

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Dix, Bill ..... Shell Rock	Farmer .....	21st—Butler, Grundy .....	77, 78
Dolecheck, Cecil ..... Mount Ayr	Farmer .....	88th—Decatur, Ringgold, Taylor, Union	77, 78
Dotzler, William A., Jr. .... Waterloo	Machinist/Labor ..... Representative	26th—Black Hawk .....	77, 78
Drake, Jack ..... Lewis	Farmer .....	81st—Audubon, ..... Pottawattamie, Shelby	75, 76, 77, 78
Eddie, Russell J. .... Storm Lake	Retired Farmer/Legislator	10th—Buena Vista, Clay, ... Pocahontas	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Eichhorn, George S. .... Stratford	Attorney .....	14th—Boone, Calhoun, .... Hamilton, Webster	None
Elgin, Jeffrey C. .... Cedar Rapids	Business Owner/Investor ...	51st—Linn .....	None
Falck, Steve ..... Stanley	Associate Real Estate ..... Appraiser	28th—Buchanan, Fayette	77, 78
Fallon, Ed ..... Des Moines	Musician .....	70th—Polk .....	75, 76, 77, 78
Finch, Barbara A. .... Ames	Farming .....	62nd—Story .....	None
Foege, Ro ..... Mount Vernon	Social Worker .....	50th—Johnson, Linn .....	77, 78
Ford, Wayne W. .... Des Moines	Executive Director ..... Urban Dreams	71st—Polk .....	77, 78
Frevert, Marcella R. .... Emmetsburg	Legislator .....	8th—Clay, Kossuth, ..... Palo Alto	77, 78
Garman, Teresa ..... Ames	Retired/Legislator .....	63rd—Marshall, Story .....	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Gipp, Chuck ..... Decorah	Farmer .....	31st—Allamakee, ..... Winneshiek	74, 74X, 74XX, 75, 76, 77, 78
Greimann, Jane ..... Ames	Retired Public School ..... Teacher	61st—Story .....	78(2nd)
Grundberg, Betty ..... Des Moines	Property Management and Renovations	73rd—Polk .....	75, 76, 77, 78
Hahn, James F. .... Muscatine	Real Estate/Sales/ ..... Management	48th—Muscatine, Scott ....	74, 74X, 74XX, 75, 76, 77, 78
Hansen, Brad ..... Carter Lake	Health Administrator .....	83rd—Pottawattamie .....	77, 78
Hatch, Jack ..... Des Moines	Housing Developer .....	68th—Polk .....	71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Heaton, Dave ..... Mount Pleasant	Restaurant Owner .....	97th—Des Moines, Henry, Washington	76, 77, 78
Hoffman, Clarence C. .... Charter Oak	Insurance .....	12th—Crawford, Monona, Woodbury	78

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Horbach, Lance James ..... Tama	Insurance/ Long Term Care	60th—Benton, Black Hawk, Tama	78
<sup>1</sup> Houser, Hubert M. .... Carson	Farmer .....	85th—Fremont, Mills, ..... Pottawattamie	75, 76, 77, 78
Hoversten, Gregory B. .... Sioux City	Physician .....	1st—Woodbury .....	None
Huseman, Daniel Adair .... Aurelia	Farmer .....	9th—Buena Vista, ..... Cherokee, O'Brien, ..... Plymouth	76, 77, 78
Huser, Geri D. .... Altoona	Social Worker .....	66th—Polk .....	77, 78
Jacobs, Elizabeth (Libby) S. West Des Moines	Assistant Director — ..... Corporate Relations	74th—Polk .....	76, 77, 78
Jenkins, G. Willard ..... Waterloo	Engineer .....	24th—Black Hawk .....	77, 78
Jochum, Pam ..... Dubuque	.....	35th—Dubuque .....	75, 76, 77, 78
Johnson, David ..... Ocheyedan	.....	6th—Lyon, O'Brien, ..... Osceola, Sioux	78
<sup>2</sup> Jones, Gerald D. .... Silver City	.....	85th—Fremont, Mills, ..... Pottawattamie	None
Kettering, Steve ..... Lake View	Community Banker .....	11th—Ida, Sac, Woodbury	78
Klemme, Ralph F. .... Le Mars	Farmer .....	4th—Plymouth, Woodbury	75, 76, 77, 78
Kreiman, Keith A. .... Bloomfield	Attorney .....	92nd—Appanoose, Davis, Monroe, Van Buren	75, 76, 77, 78
Kuhn, Mark A. .... Charles City	Farmer .....	29th—Floyd, Howard, ..... Mitchell	78
Larkin, Rick ..... Fort Madison	Correctional Counselor ....	99th—Des Moines, Lee .....	75, 76, 77, 78
Larson, Charles W., Jr. .... Cedar Rapids	Attorney .....	55th—Linn .....	75, 76, 77, 78
Lensing, Vicki ..... Iowa City	Funeral Home Owner .....	45th—Johnson .....	None
Manternach, Gene ..... Cascade	Farmer .....	56th—Jones, Linn .....	None
Mascher, Mary ..... Iowa City	Teacher .....	46th—Johnson .....	76, 77, 78
May, Dennis ..... Kensett	Farmer .....	20th—Cerro Gordo, ..... Mitchell, Worth	72, 72X, 72XX, 73, 75, 76, 77, 78
Mertz, Dolores M. .... Ottosen	.....	15th—Humboldt, Kossuth	73, 74, 74X, 74XX, 75, 76, 77, 78

<sup>1</sup> Resigned May 18, 2001

<sup>2</sup> Elected in Special Election June 12, 2001

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Metcalf, Janet S. .... Urbandale	Legislator .....	75th—Polk .....	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Millage, David A. .... Bettendorf	Attorney at Law .....	41st—Scott .....	74, 74X, 74XX, 75, 76, 77, 78
Murphy, Patrick J. .... Dubuque	Self-Employed/Adjunct ..... Faculty NICC	36th—Dubuque .....	73(2nd), 74, 74X, 74XX, 75, 76, 77, 78
Myers, Richard .....	Business Owner .....	49th—Johnson .....	75(2nd), 76, 77, 78
O'Brien, Mike .....	Retired Teacher .....	79th—Boone, Greene .....	75, 76, 77, 78
Osterhaus, Robert J. .... Maquoketa	Pharmacist .....	34th—Dubuque, Jackson ...	76(2nd), 77, 78
Petersen, Janet .....	Public Relations Senior .... Account Executive	72nd—Polk .....	None
Quirk, Brian J. .... New Hampton	Electrical Contractor .....	30th—Chickasaw, Howard, Winneshiek	None
Raecker, J. Scott .....	Executive Director — ..... Institute for Character Development	76th—Dallas, Polk .....	78
Rants, Christopher C. .... Sioux City	Pierce and Associates .....	3rd—Woodbury .....	75, 76, 77, 78
Rayhons, Henry .....	Farmer .....	16th—Hancock, ..... Winnebago, Wright	77, 78
Rekow, Leigh A. .... Postville	Farmer .....	32nd—Allamakee, Clayton, Fayette	None
Reynolds, Rebecca .....	Legislator/Nurse .....	94th—Jefferson, ..... Van Buren, Wapello	77, 78
Richardson, Steve .....	Sales Manager — Skold .... Door Company	89th—Warren .....	77, 78
Roberts, Rod .....	Church Development .....	80th—Carroll, Greene .....	None
Scherrman, Paul .....	Business Owner .....	33rd—Delaware, Dubuque	77, 78
Schrader, David .....	Self-Employed .....	90th—Marion, Warren .....	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Seng, Dr. Joe M. .... Davenport	Veterinarian .....	43rd—Scott .....	None
Shey, Patrick .....	Lawyer .....	52nd—Linn .....	78(2nd)
Shultz, Don .....	Job Training Consultant ....	25th—Black Hawk .....	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Siegrist, Brent .....	Consultant .....	84th—Pottawattamie .....	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Sievers, Bryan J. .... New Liberty	Farmer .....	40th— <i>Scott</i> .....	None
Smith, Mark D. .... Marshalltown	Associate Director, Mental Health Center of .....	64th— <i>Marshall</i> .....	None
Stevens, Greg .....	Teacher .....	7th— <i>Dickinson, Emmet, ... Palo Alto</i>	78
Sukup, Steve E. .... Dougherty	Engineer .....	18th— <i>Franklin, Hardin</i> ....	76, 77, 78
Taylor, Dick .....	Retired Electrician/ Electrical Project .....	53rd— <i>Linn</i> .....	78(2nd)
Taylor, Todd .....	Labor Representative .....	54th— <i>Linn</i> .....	76(2nd), 77, 78
Teig, Russell W. .... Jewell	Farmer .....	17th— <i>Franklin, Hamilton, Hardin, Wright</i>	76, 77, 78
Tremmel, Mark .....	Attorney .....	93rd— <i>Wapello</i> .....	None
Tymeson, Jodi S. .... Winterset	Teacher/Army Guard .....	77th— <i>Dallas, Madison</i> .....	None
Tyrrell, Phil .....	Independent Insurance .....	59th— <i>Benton, Iowa</i> .....	68, 69, 69X, 69XX, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Van Engelenhoven, James L. Leighton	Farmer .....	95th— <i>Mahaska, Marion</i> ....	78
Van Fossen, James .....	Economic Development .... Analyst — MidAmerican Energy	42nd— <i>Scott</i> .....	76, 77, 78
Warnstadt, Steve .....	Adjunct Instructor .....	2nd— <i>Woodbury</i> .....	76, 77, 78
Weidman, Dick .....	Retired State Trooper/ Funeral Home .....	86th— <i>Cass, Montgomery, Pottawattamie</i>	74, 74X, 74XX, 75, 76, 77, 78
Winckler, Cindy Lou .....	Curriculum and .....	44th— <i>Scott</i> .....	None
Wise, Philip .....	Teacher .....	98th— <i>Henry, Lee</i> .....	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78
Witt, William G. .... Cedar Falls	Photojournalist .....	23rd— <i>Black Hawk</i> .....	75, 76, 77, 78

# JUDICIAL DEPARTMENT

## JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
Louis A. Lavorato, C.J. ....	Des Moines .....	December 31, 2004
Jerry L. Larson .....	Harlan .....	December 31, 2004
James H. Carter .....	Cedar Rapids .....	December 31, 2000
Linda K. Neuman .....	Davenport .....	December 31, 2004
Bruce M. Snell Jr. ....	Ida Grove .....	December 31, 2004
Marsha K. Ternus .....	Des Moines .....	December 31, 2002
Mark S. Cady .....	Fort Dodge .....	December 31, 2000

## JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Rosemary Shaw Sackett, C.J. ....	Spencer .....	December 31, 2002
Terry L. Huitink .....	Ireton .....	December 31, 2002
Michael J. Streit .....	Chariton .....	December 31, 2004
Gayle Nelson Vogel .....	Knoxville .....	December 31, 2004
Robert E. Mahan .....	Ames .....	December 31, 2004
Van D. Zimmer .....	Vinton .....	December 31, 2000
John C. Miller .....	Burlington .....	December 31, 2000
Daryl L. Hecht .....	Sioux City .....	December 31, 2000
Anu Vaitheswaran .....	Des Moines .....	December 31, 2000



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315 Federal Building  
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Dubuque, Iowa 52001  
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103 Federal Courthouse Building  
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116 Federal Building  
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# CONDITION OF STATE TREASURY

June 30, 2000

	Balance July 1, 1999	Total Receipts and Transfers	Total Available	Total Disbursements and Transfers	Balance June 30, 2000
General Fund .....	\$ 630,454,171	\$ 7,446,664,741	\$ 8,077,118,912	\$ 7,583,454,813	\$ 493,664,098
Special Revenue Fund .....	531,818,020	2,245,333,271	2,777,151,291	2,174,868,902	602,282,388
Capitol Projects Fund .....	118,734,754	191,228,851	309,963,605	190,467,330	119,496,275
Debt Service Fund .....	10,547,913	847,707	11,395,620	1,026,664	10,368,956
Enterprise Fund .....	56,963,006	384,503,560	441,466,566	384,186,215	57,280,351
Internal Service Fund .....	56,563,378	281,658,528	338,221,906	302,310,564	35,911,342
Expendable Trust Fund .....	26,169,342	256,453,900	282,623,242	258,509,705	24,113,537
Nonexpendable Trust Fund .....	7,974,675	199,169	8,173,844	0	8,173,844
Pension Fund .....	11,914,519,794	2,640,756,933	14,555,276,727	641,679,501	13,913,597,227
Trust and Agency Fund .....	147,292,150	3,222,669,908	3,369,962,058	3,245,348,704	124,613,354
Totals .....	<u>\$13,501,037,203</u>	<u>\$16,670,316,568</u>	<u>\$30,171,353,771</u>	<u>\$14,781,852,398</u>	<u>\$15,389,501,372</u>

Balance July 1, 1999 .....	\$13,501,037,203
Receipts and Transfers .....	16,670,316,568
Total Available .....	30,171,353,771
Disbursements and Transfers .....	14,781,852,398
Balance June 30, 2000 .....	\$15,389,501,372

DEPARTMENT OF REVENUE AND FINANCE

April 25, 2001

# ANALYSIS BY CHAPTERS

## 2001 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolutions to chapters of the 2001 Acts, Regular Session, see page 648

CH.	FILE	TITLE
1	HF 1	Limited sales and use tax exemption for residential metered gas and electricity or heating fuel
2	HF 191	School finance — allowable growth
3	SF 63	Child endangerment
4	HF 222	Bank offices and branches
5	SF 258	Tobacco settlement authority — extension of time
6	SF 83	Uniform citation and complaint — verification
7	HF 267	Department of natural resources — waste management assistance division
8	HF 192	Access to criminal history and abuse information — department of inspections and appeals
9	SF 279	Expenses related to regulation of public utilities — assessments
10	HF 154	Paid time off for injured department of public safety peace officers
11	HF 230	Iowa economic development board strategic planning duties
12	HF 286	Cooperative associations — members, nonmembers, and memberships — fictitious names
13	HF 325	Regulation of multiple employer welfare arrangements
14	SF 125	Interstate wildlife violators compact membership
15	HF 287	Interstate compact for adult offender supervision
16	SF 276	Licensure of insurance producers — deregulation of legal expense insurance
17	HF 327	Enticing away and sexual exploitation of a minor
18	SF 146	Tobacco settlement agreement modifications
19	HF 179	Animal bites and rabies — law enforcement agency dogs and horses
20	HF 228	State building code and preemployment records checks
21	HF 269	Secured consumer loans for motor vehicles — balloon payments
22	HF 470	Iowa communications network — proprietary interests
23	HF 597	Meat and poultry processors — unclaimed deer venison
24	HF 194	Nonsubstantive Code corrections
25	HF 549	Agricultural liens
26	HF 89	School curriculum and telecommunications — supervision of students
27	SF 94	Sexually violent predators — escape from custody
28	SF 102	Charitable gift annuities
29	HF 225	Election of state fair board directors
30	HF 256	Health care facility regulation
31	HF 272	Felonious misconduct by public officer or employee — falsified writings
32	HF 324	Transportation — miscellaneous provisions
33	HF 353	Driver education — instruction time
34	HF 569	Proposed uniform computer information transactions Act — effect — intent

CH.	FILE	TITLE
35	HF 624	Mayor-council city government — appointment and dismissal of police chief or marshal
36	HF 628	Grain dealer regulation — exceptions
37	SF 479	On-site wastewater systems assistance program
38	HF 259	Notarial acts and officers
39	HF 270	Campus security and sexual abuse policies and reports
40	HF 383	Designation of model communities — approval
41	HF 462	Area education agency administrative costs reimbursement — federal Individuals With Disabilities Education Act funds
42	HF 469	Termination of agricultural equipment dealership agreements — repurchases required of supplier
43	SF 347	Domestic abuse protective orders — plaintiff's fees and costs
44	SF 372	Public records and documents
45	SF 453	County administrative procedures, filing requirements, and related costs
46	HF 178	Child abuse and protection — drug manufacture or possession in child's presence
47	HF 293	School board duties — officers — annual settlements
48	HF 309	Instructional support program participation — West Bend-Mallard School District
49	HF 400	Real estate appraiser regulation
50	HF 481	Establishment of city election precincts
51	HF 636	Underground storage tank registration and reporting — corrective action benefits
52	SF 465	Biodiesel fuel revolving fund
53	HF 294	Compensation of school board members
54	HF 301	Rural fire protection
55	HF 451	Practice of accounting — licensure
56	HF 566	Registered voters, eligible electors, and qualified voters
57	HF 567	Adoptions — interstate legal risk placements and standby procedures
58	SF 433	Public health regulation
59	SF 449	Indian housing authority property — tax exemption
60	SF 462	Energy loan fund — eligible improvements
61	HF 384	Economic and community development and job training programs
62	HF 389	School board duties — suspension of practitioners
63	HF 458	Limitation of criminal actions — incest — sexual exploitation
64	HF 655	Adult day services
65	HF 663	County public hospital trustee eligibility — health care practitioners
66	HF 686	State and local competition with private industry — notice
67	SF 355	Custody of newborn infants — release at institutional health care facilities — parental rights
68	SF 497	Iowa public employees' retirement system — administration and investments
69	SF 500	Insurance regulation
70	HF 292	Information technology department — financial operations and transactions
71	HF 326	Civil rights actions — mediation
72	HF 526	Reciprocity standards for barbers — study
73	HF 550	Sex offender registration — criminal HIV transmission

CH.	FILE	TITLE
74	SF 114	Health care entities, organizations, and institutions — names and composition
75	SF 186	County hospital fund tax levy
76	SF 384	Credit union division employee compensation
77	SF 452	Uniform prescription drug information cards
78	SF 511	Legalization of city of Davenport ordinances and amendments
79	HF 310	Child support recovery unit — court records access — setoff payments for support
80	HF 654	Property exempt from execution — retirement plan contributions, earnings, and increases in value
81	SF 62	Processing, storage, and distribution of honey — residences
82	SF 168	City cable television franchises
83	SF 169	Real estate transactions by attorney in fact — regulation — multiple similar transactions
84	SF 259	Crime victim compensation fund — use of moneys
85	SF 337	Transfer of structured settlement payment rights — tort and workers' compensation claims
86	HF 352	Iowa battle flag collection
87	HF 356	Workers' compensation and other liability — miscellaneous changes
88	HF 535	City enterprises — funding of child care center construction and equipment
89	HF 581	Drainage or levee district election districts — size
90	HF 647	Department of transportation release and use of personal information
91	SF 84	Purple loosestrife — ban on import, sale, or distribution
92	SF 184	County sheriff services — fees — garnishment release
93	SF 242	Authentication procedures for medication and standing orders — hospitals
94	SF 265	Nonoperative air bags — installation, distribution, or sale — penalty
95	SF 313	County board of supervisors appointees — removal
96	HF 73	Military honor guard services by veterans organizations
97	HF 707	Income taxation of foreign corporations — temporary storage of goods
98	SF 57	City franchises — utilities — elections
99	SF 141	Accelerated career education program — allocation of program job credits
100	SF 185	Factory-built structures — manufactured home installer certification
101	SF 209	Control of infectious or contagious diseases in cattle and other animals — paratuberculosis
102	SF 323	Investments by municipal utility retirement systems
103	SF 336	State regulation of education practitioner rights, responsibilities, practices, and ethics
104	HF 229	Reserve peace officers
105	HF 560	Regulation of child foster care
106	HF 662	Community empowerment initiative
107	HF 711	Drainage or levee district tax assessment levy
108	SF 344	Confidential public records — communications from persons outside of government

CH.	FILE	TITLE
109	SF 354	Administration of decedents' estates — medical assistance claims
110	SF 412	Compulsory school attendance age
111	SF 418	Unemployment compensation — social security pensions — employment by Indian tribe
112	HF 180	Dissolution of marriage — financial information — court-approved courses
113	HF 354	Determination and pronouncement of death
114	HF 674	Area education agency accreditation and reorganization or dissolution
115	HF 705	Taxation of electricity, natural gas, and fuels used for residential energy
116	HF 715	Tax administration and related matters
117	SF 392	Appeals from juvenile court
118	SF 473	Industries, transactions, and persons regulated by commissioner of insurance
119	SF 519	Tax assessment of property rented or leased to low-income persons
120	HF 502	Offenses against animal facilities or crop operations
121	HF 635	Employee compensation for travel time to and from worksites
122	HF 680	Child and dependent adult abuse reporting
123	HF 716	Ethanol blended gasoline — related taxes
124	HF 722	Solid waste — tonnage fees — solid waste account moneys
125	HF 733	Health insurance and health insurance associations — miscellaneous changes
126	SF 203	School finance — miscellaneous changes
127	SF 140	Internal Revenue Code references and income tax provisions
128	SF 198	Family investment program — postsecondary education assistance
129	SF 211	Department of agriculture and land stewardship — miscellaneous changes
130	SF 339	Hunting and fishing violations — fines
131	SF 346	Crimes, reports of crimes, and department of corrections activities
132	SF 350	Transportation — additional miscellaneous changes
133	SF 393	Criminal defendants' restitution plans — petitions
134	SF 407	Licenses and fees regulated by department of natural resources
135	SF 458	Services and proceedings involving juvenile delinquents and other children
136	SF 470	Infectious and contagious diseases in animals — regulation and remedies
137	SF 499	Scheduled fines — miscellaneous changes
138	SF 515	Public utility crossings — railroad rights-of-way
139	SF 520	Taxation of methane gas and other gas conversion property
140	SF 523	Distribution of estates by affidavit — taxation
141	HF 349	Economic development programs — investment tax credits — enterprise zones
142	HF 564	Cooperative associations — reversion of disbursements
143	HF 713	County lease or lease-purchase contracts and records, fees, and tax credits affecting real property
144	HF 724	Iowa heritage license plate fees — allocation
145	HF 731	Utility replacement tax
146	SF 480	Community college faculty licensing — review
147	HF 579	Administration and management of executive branch personnel



CH.	FILE	TITLE
148	HF 720	Licenses issued by the department of natural resources — fees
149	HF 723	Sales and use taxes on irrigation equipment
150	HF 736	Tax administration — additional related matters
151	HF 739	Application of sales and services tax receipts to bonded indebtedness — political subdivisions
152	SF 526	Unclaimed and abandoned property — business association property
153	HF 656	Manufactured or mobile homes — licensing and regulation
154	HF 712	Homestead and family farm tax credits — miscellaneous changes
155	HF 727	Mental health, mental retardation, and developmental disabilities services
156	SF 81	Criteria for state economic development financial assistance
157	HF 590	Communicable and infectious diseases and HIV — care provider exposure — testing
158	HF 637	Libraries, library services, and administration and school improvement technology funds
159	HF 643	Education — miscellaneous changes
160	HF 737	Keep Iowa beautiful fund — income tax checkoff
161	SF 476	Student achievement and teacher quality program
162	SF 524	Grape and wine development
163	SF 98	Unemployment compensation — natural disasters
164	SF 532	Tobacco settlement program — miscellaneous changes
165	SF 543	Criminal sentencing — miscellaneous changes
166	HF 598	Child protection center grant program
167	HF 695	School-to-career program — miscellaneous changes
168	SF 486	Law enforcement initiative surcharge
169	HF 687	Administration and oversight of state government
170	HF 745	Regulation of foot and mouth disease
171	SF 65	Appropriations — supplemental funding for low-income home energy assistance
172	SF 267	Supplemental appropriations and reductions
173	SF 509	Supplemental appropriations — department of transportation — road salt
174	SF 533	Tobacco settlement trust fund — appropriations to Iowa's health account
175	HF 706	Appropriations — energy conservation programs funding
176	HF 755	Miscellaneous appropriations, reductions, and other provisions
177	HF 413	Student achievement and teacher quality program — appropriations and allocations
178	SF 525	Federal block grant appropriations
179	SF 527	Appropriations — judicial branch
180	SF 528	Appropriations — transportation
181	SF 535	Appropriations — education
182	HF 726	Appropriations — health and human rights
183	HF 725	Appropriations — agriculture and natural resources
184	SF 537	Tobacco settlement fund appropriations
185	HF 742	Appropriations — infrastructure and capital projects
186	SF 530	Appropriations — justice system
187	SF 531	Appropriations — administration and regulation
188	HF 718	Appropriations — economic development
189	HF 719	Appropriations — state government technology and operations

CH.	FILE	TITLE
190	HF 746	Compensation for public employees
191	HF 732	Appropriations — human services
192	HF 740	Senior living trust fund appropriations and nursing facility reimbursement
193	SJR 6	Nullification of administrative rule — unprotected nongame status of reptiles
194	HJR 5	Nullification of administrative rule — administration fee for local option sales and services tax
195	HJR 11	Nullification of administrative rule — wild turkey harvest reports
196	SJR 3	Sixth judicial district department of correctional services lease-purchase agreement
197	SJR 7	World food prize awards ceremony
198	SJR 8	Food safety and genetic engineering educational program

## 2001 EXTRAORDINARY SESSION

For Conversion Table of House Files to chapters of the 2001 Acts, Extraordinary Session, see page 1020

CH.	FILE	TITLE
1	HF 758	Congressional and legislative redistricting
2	HF 696	Employment security administrative contribution surcharge — computation — use of funds
3	HF 757	Individual income tax — federal income tax rebate
4	HF 577	Electric power generation and transmission — miscellaneous provisions
5	HF 698	Appropriations — regulatory and expenditure matters

2001 Regular Session  
of the  
Seventy-Ninth General Assembly  
of the  
State of Iowa

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**CHAPTER 1**  
LIMITED SALES AND USE TAX EXEMPTION FOR RESIDENTIAL  
METERED GAS AND ELECTRICITY OR HEATING FUEL  
*H.F. 1*

**AN ACT** relating to the exemption from the sales and use taxes of the gross receipts from the sale, furnishing, or service of metered gas and of fuel used in residential-type dwellings and including an effective date.

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

Section 1. Section 422.45, Code 2001, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 60. a. The gross receipts from the sale, furnishing, or service of metered gas to provide energy for residential customers and the gross receipts from the sale, furnishing, or service of fuel, including propane and heating oil, used to provide heat for residential dwellings and units of apartment and condominium complexes used for human occupancy.

b. Paragraph "a" applies to the gross receipts from the sale, furnishing, or service of metered gas for energy if the date of the utility billing of the customer is during March 2001, or April 2001, or applies to the gross receipts from the sale, furnishing, or service of fuel used for heating purposes if such sale, furnishing, or service occurs during the period beginning with the effective date of this Act and ending on March 31, 2001.

Sec. 2. Section 422.45, Code 2001, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 61. a. Subject to paragraph "b", the gross receipts from the sale, furnishing, or service of metered gas and electricity to provide energy for residential customers and the gross receipts from the sale, furnishing, or service of fuel, including propane and heating oil, used to provide heat for residential dwellings and units of apartment and condominium complexes used for human occupancy.

b. The exemption in this subsection shall be phased in by means of a reduction in the tax rate as follows:

(1) If the date of the utility billing of the customer for the sale, furnishing, or service of metered gas and electricity is between January 1, 2002, and December 31, 2002, or the sale, furnishing, or service of fuel for heating purposes occurs between January 1, 2002, and December 31, 2002, the rate of tax is four percent of the gross receipts.

(2) If the date of the utility billing of the customer for the sale, furnishing, or service of metered gas and electricity is between January 1, 2003, and December 31, 2003, or the sale, furnishing, or service of fuel for heating purposes occurs between January 1, 2003, and December 31, 2003, the rate of tax is three percent of the gross receipts.

(3) If the date of the utility billing of the customer for the sale, furnishing, or service of metered gas and electricity is between January 1, 2004, and December 31, 2004, or the sale, furnishing, or service of fuel for heating purposes occurs between January 1, 2004, and December 31, 2004, the rate of tax is two percent of the gross receipts.

(4) If the date of the utility billing of the customer for the sale, furnishing, or service of metered gas and electricity is between January 1, 2005, and December 31, 2005, or the sale, furnishing, or service of fuel for heating purposes occurs between January 1, 2005, and December 31, 2005, the rate of tax is one percent of the gross receipts.

(5) If the date of the utility billing of the customer for the sale, furnishing, or service of metered gas and electricity is on or after January 1, 2006, or the sale, furnishing, or service of fuel for heating purposes occurs on or after January 1, 2006, the rate of tax is zero percent of the gross receipts.

c. The exemption in this subsection does not apply to local option sales and services tax imposed pursuant to chapters 422B and 422E.<sup>1</sup>

Sec. 3. If a utility that sells, furnishes, or services metered gas to provide energy for residential customers is unable to timely adjust its billing system to provide the sales and use tax exemption provided in section 1 of this Act, the utility is authorized to charge the sales or use tax on utility bills that are dated during March 2001 or until the billing system is adjusted for the sales and use tax exemption provided in section 1 of this Act. The utility shall grant to each residential customer from which the tax was collected on such gross receipts a credit equal to the amount of tax collected. The credit shall appear on the first utility billing which is dated after March 31, 2001. The department of revenue<sup>2</sup> is granted emergency rulemaking authority to implement this section.

Sec. 4. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved February 5, 2001

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## CHAPTER 2

### SCHOOL FINANCE — ALLOWABLE GROWTH

#### H.F. 191

**AN ACT** providing for the establishment of the state percent of growth for purposes of the state school foundation program and providing an applicability date.

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

Section 1. Section 257.8, subsection 1, Code 2001, is amended to read as follows:

1. STATE PERCENT OF GROWTH. ~~The state percent of growth for the budget year beginning July 1, 2000, is four percent.~~ The state percent of growth for the budget year begin-

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<sup>1</sup> See chapter 115, §2 herein

<sup>2</sup> Department of revenue and finance probably intended

ning July 1, 2001, is four percent. The state percent of growth for the budget year beginning July 1, 2002, is four percent. The state percent of growth for each subsequent budget year shall be established by statute which shall be enacted within thirty days of the submission in the year preceding the base year of the governor's budget under section 8.21. The establishment of the state percent of growth for a budget year shall be the only subject matter of the bill which enacts the state percent of growth for a budget year.

Sec. 2. APPLICABILITY. This Act is applicable for computing state aid under the state school foundation program for the school budget year beginning July 1, 2002.

Approved February 12, 2001

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**CHAPTER 3**  
CHILD ENDANGERMENT  
S.F. 63

**AN ACT** relating to child endangerment violations and injuries to a child or minor and providing penalties.

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

Section 1. Section 702.11, subsection 2, Code 2001, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** e. Child endangerment resulting in bodily injury to a child<sup>1</sup> in violation of section 726.6, subsection 2A.

Sec. 2. Section 726.6, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A person who is the parent, guardian, or person having custody or control over a child or a minor under the age of eighteen with a mental or physical disability, or a person who is a member of the household in which a child or such a minor resides, commits child endangerment when the person does any of the following:

Sec. 3. Section 726.6, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. By an intentional act or series of intentional acts, uses unreasonable force, torture or cruelty that results in ~~physical~~ bodily injury, or that is intended to cause serious injury.

Sec. 4. Section 726.6, Code 2001, is amended by adding the following new subsections:  
**NEW SUBSECTION.** 1A. For the purposes of subsection 1, "person having control over a child or a minor" means any of the following:

a. A person who has accepted, undertaken, or assumed supervision of a child or such a minor from the parent or guardian of the child or minor.

b. A person who has undertaken or assumed temporary supervision of a child or such a minor without explicit consent from the parent or guardian of the child or minor.

c. A person who operates a motor vehicle with a child or such a minor present in the vehicle.

**NEW SUBSECTION.** 2A. A person who commits child endangerment resulting in bodily injury to a child or minor is guilty of a class "D" felony.

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<sup>1</sup> See chapter 176, §79 herein

Sec. 5. Section 726.6, subsection 3, Code 2001, is amended to read as follows:

3. A person who commits child endangerment not resulting in bodily injury or serious injury to a child or minor is guilty of an aggravated misdemeanor.

Approved February 16, 2001

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## CHAPTER 4

### BANK OFFICES AND BRANCHES

H.F. 222

**AN ACT** permitting banks in Iowa to establish additional bank offices, and containing effective dates.

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

Section 1. Section 524.1201, subsection 1, Code 2001, is amended to read as follows:

1. ~~A bank shall not open or maintain a branch bank.~~ A state bank may establish and operate any number of bank offices at any location in this state subject to the approval and regulation of the superintendent ~~and to the restrictions upon location and number imposed by section 524.1202.~~ A bank office may furnish all banking services ordinarily furnished to customers and depositors at the principal place of business of the state bank which operates the office, and a bank office manager or an officer of the bank shall be physically present at each bank office during a majority of its business hours. The central executive and official business and principal recordkeeping functions of a state bank shall be exercised only at its principal place of business or at another bank office as authorized by the superintendent for these functions.

Sec. 2. Section 524.1202, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Notwithstanding other restrictions in this chapter to the contrary, a state bank may, subject to the approval of the superintendent, establish up to three bank offices at any location in Iowa in addition to the bank offices that may be established pursuant to other provisions of this chapter.

NEW SUBSECTION. 5. Notwithstanding any other restrictions in this chapter to the contrary, a branch of an out-of-state national bank or a branch of an out-of-state state bank may establish up to three bank offices at any location in Iowa in addition to the bank offices that may be established pursuant to other provisions of this chapter, provided that no more than a total of three such bank offices may be established by all branches collectively of an out-of-state national bank or an out-of-state state bank.

Sec. 3. Section 524.1204, Code 2001, is amended to read as follows:

524.1204 PRIVILEGES EXTENDED TO NATIONAL BANKS.

The privileges extended to state banks by section 524.1201, ~~524.1202~~ and 524.1212 and chapter 527 shall be available on the same conditions to national banks to the extent they are so authorized by federal law.

Sec. 4. Section 524.1205, Code 2001, is amended to read as follows:

524.1205 ESTABLISHMENT OF BRANCH OR OFFICE IN OTHER STATE — SUPERINTENDENT'S AUTHORITY TO REGULATE.

1. Notwithstanding section 524.1201, subsection 1, and section 524.1202, subsection 2,

paragraph "b", upon application to and approval by the superintendent, a state bank may acquire in any manner, establish, maintain, operate, retain, or relocate a branch or office in a state other than this state. Subject to the approval of the superintendent, such branch or office may engage in any activity authorized for a branch or office of a bank organized under the laws of that other state.

2. The superintendent shall supervise and regulate all out-of-state branches and offices of a state bank.

3. Sections 524.1201 and 524.1203 apply to an out-of-state branch or office of a state bank except as otherwise provided by the laws of the state in which a branch or office is located or by the superintendent pursuant to this section.

4. This section does not authorize or permit a state-chartered bank located outside of this state or a national bank located outside of this state to establish a de novo branch or office in this state. ~~This section does not authorize or permit, before June 1, 1997, an interstate merger transaction within the meaning of 12 U.S.C. § 1831u(a).~~

Sec. 5. Section 524.1205, Code 2001, as amended by section 4 of this Act, is amended to read as follows:

**524.1205 ESTABLISHMENT OF BRANCH OR OFFICE IN OTHER STATE — SUPERINTENDENT'S AUTHORITY TO REGULATE.**

1. Notwithstanding section 524.1201, subsection 1, ~~and section 524.1202, subsection 2, paragraph "b"~~, upon application to and approval by the superintendent, a state bank may acquire in any manner, establish, maintain, operate, retain, or relocate a branch or office in a state other than this state. Subject to the approval of the superintendent, such branch or office may engage in any activity authorized for a branch or office of a bank organized under the laws of that other state.

2. The superintendent shall supervise and regulate all out-of-state branches and offices of a state bank.

3. Sections 524.1201 and 524.1203 apply to an out-of-state branch or office of a state bank except as otherwise provided by the laws of the state in which a branch or office is located or by the superintendent pursuant to this section.

4. This section does not authorize or permit a state-chartered bank located outside of this state or a national bank located outside of this state to establish a de novo branch or office in this state.

Sec. 6. Section 524.1212, Code 2001, is amended to read as follows:

**524.1212 LOCATION OF SATELLITE TERMINALS.**

Any state bank may utilize a satellite terminal, as defined in section 527.2, when that satellite terminal is lawfully being operated, at any location within this state. ~~A satellite terminal which complies with the requirements of chapter 527 is not a branch bank or an office of a bank and is not subject to the restrictions on location or number set forth in section 524.1202.~~ Any transaction engaged in through the use of a satellite terminal shall be deemed to take place at the principal place of business of a bank whose accounts and records are affected by the transaction.

Sec. 7. Section 524.1213, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 8A. A bank that is converted to the principal place of business or to a united community bank office as a result of a merger or consolidation under subsection 3 that occurs after January 1, 2001, may establish any number of additional bank offices that could have been established by the bank pursuant to section 524.1202, subsection 4, prior to the merger or consolidation.

Sec. 8. Section 524.1419, Code 2001, is amended to read as follows:

**524.1419 OFFICES OF A RESULTING STATE BANK.**

If a merger or conversion results in a state bank subject to the provisions of this chapter,

the resulting state bank, after the effective date of the merger or conversion, shall be subject to the provisions of sections 524.1201, ~~524.1202~~, and 524.1203 relating to the bank offices.

Sec. 9. Section 534.214, subsection 2, unnumbered paragraph 2, Code 2001, is amended by striking the unnumbered paragraph.

Sec. 10. Sections 524.1202 and 524.1213, Code 2001, are repealed.

Sec. 11. FUTURE EFFECTIVE DATE. Sections 1, 3, 5, 6, 8, 9, and 10 of this Act take effect July 1, 2004.

Sec. 12. IMMEDIATE EFFECTIVE DATE. Except as provided in section 11 of this Act, this Act, being deemed of immediate importance, takes effect upon enactment.

Approved February 21, 2001

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## CHAPTER 5

### TOBACCO SETTLEMENT AUTHORITY — EXTENSION OF TIME

S.F. 258

**AN ACT** relating to the extension of the tobacco settlement authority Act, and providing an effective date.

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

Section 1. 2000 Iowa Acts, chapter 1208, section 24,<sup>1</sup> is amended to read as follows:

SEC. 24. Chapter 12E, Code 2001, is repealed ~~March 1, 2001~~ December 31, 2001.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 1, 2001

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## CHAPTER 6

### UNIFORM CITATION AND COMPLAINT — VERIFICATION

S.F. 83

**AN ACT** relating to the verification of a uniform citation and complaint issued by a law enforcement agency.

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

Section 1. Section 805.6, subsection 5, Code 2001, is amended to read as follows:

5. The uniform citation and complaint shall contain a place for the verification of the officer issuing the complaint. The complaint may be verified ~~in accordance with section~~

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<sup>1</sup> See chapter 164, §19 herein



622.1 before the chief officer of the law enforcement agency, or the chief officer's designee. The chief officer of each law enforcement agency of the state may designate specific individuals to administer oaths and certify verifications.

Sec. 2. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.

Approved March 2, 2001

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## CHAPTER 7

### DEPARTMENT OF NATURAL RESOURCES — WASTE MANAGEMENT ASSISTANCE DIVISION

H.F. 267

AN ACT renaming the waste management assistance division of the department of natural resources.

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

Section 1. Section 15A.1, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. If the business generates solid or hazardous waste, that the business conducts in-house audits and management plans to reduce the amount of the waste and to safely dispose of the waste. For purposes of this paragraph, a business may, in lieu of conducting in-house audits, authorize the land quality and waste management assistance division of the department of natural resources or the Iowa waste reduction center established under section 268.4 to provide the audits.

Sec. 2. Section 173.16, unnumbered paragraph 2, Code 2001, is amended to read as follows:

In order to efficiently administer facilities and events on the state fairgrounds, and to promote Iowa's conservation ethic, the Iowa state fair board shall handle or dispose of waste generated on the state fairgrounds under supervision of the land quality and waste management assistance division established under section 455B.483.

Sec. 3. Section 455A.7, subsection 1, paragraph h, Code 2001, is amended to read as follows:

h. ~~Waste~~ Land quality and waste management assistance division which ~~has is~~ is responsible for programs related to solid waste, hazardous waste, and land quality in addition to the responsibilities provided in chapter 455B, division IV, part 9, and division VII.

Sec. 4. Section 455B.480, Code 2001, is amended to read as follows:  
455B.480 SHORT TITLE.

This part may be cited as the "Land Quality and Waste Management Assistance Division Act".

Sec. 5. Section 455B.481, subsection 2, Code 2001, is amended to read as follows:

2. It is also the intent of the general assembly that a comprehensive waste management plan be established by the land quality and waste management assistance division which includes: the determination of need and adequate regulatory controls prior to the initia-

tion of site selection; the process for selecting a superior site determined to be necessary; the establishment of a process for a site community to submit or present data, views, or arguments regarding the selection of the operator and the technology that best ensures proper facility operation; the prohibition of shallow land burial of hazardous and low-level radioactive wastes; the establishment of a regulatory framework for a facility; and the establishment of provisions for the safe and orderly development, operation, closure, postclosure, and long-term monitoring and maintenance of the facility.

Sec. 6. Section 455B.482, subsection 15, Code 2001, is amended to read as follows:

15. ~~“Waste~~ “Land quality and waste management assistance division” means the land quality and waste management assistance division established within the department of natural resources.

Sec. 7. Section 455B.483, Code 2001, is amended to read as follows:

455B.483 LAND QUALITY AND WASTE MANAGEMENT ASSISTANCE DIVISION CREATED.

A land quality and waste management assistance division is created within the department of natural resources for the purpose of carrying out the provisions of this part. The land quality and waste management assistance division is under the immediate direction and supervision of the director of the department of natural resources.

Sec. 8. Section 455B.484, subsection 2, Code 2001, is amended to read as follows:

2. Seek, receive, and accept funds in the form of appropriations, grants, awards, wills, bequests, endowments, and gifts for deposit into the land quality and waste management assistance division trust fund to be used for programs relating to the duties of the division under this part.

Sec. 9. Section 455B.484, subsection 13, paragraph c, Code 2001, is amended to read as follows:

c. In solicitation of proposals for the implementation of the comprehensive plan, the land quality and waste management assistance division shall give preference to cooperative proposals which incorporate and utilize the participation of the universities under the control of the state board of regents.

Sec. 10. Section 455B.485, subsections 3, 4, and 5, Code 2001, are amended to read as follows:

3. Approve the budget request for the land quality and waste management assistance division prior to submission to the department of management. The commission may increase, decrease, or strike any proposed expenditure within the land quality and waste management assistance division budget request before granting approval.

4. Recommend legislative action which may be required for the safe and proper management of waste, for the acquisition or operation of a facility, for the funding of a facility, to enter into interstate agreements for the management of a facility, and to improve the operation of the land quality and waste management assistance division.

5. Approve all contracts and agreements, in excess of twenty-five thousand dollars, under this part between the land quality and waste management assistance division and other public or private persons or agencies.

Sec. 11. Section 455B.516, subsection 3, Code 2001, is amended to read as follows:

3. “Division” means the land quality and waste management assistance division created pursuant to section 455B.483.

Sec. 12. Section 455B.517, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The land quality and waste management assistance division shall do all of the following:

Sec. 13. Section 455E.11, subsection 2, paragraph a, subparagraph (1), subparagraph subdivision (b), Code 2001, is amended to read as follows:

(b) Sixty-five thousand dollars to the land quality and waste management assistance division of the department to be used for the by-products and waste search service at the university of northern Iowa.

Sec. 14. Section 455E.11, subsection 2, paragraph a, subparagraph (2), subparagraph subdivision (a), subparagraph subdivision part (iv), Code 2001, is amended to read as follows:

(iv) The land quality and waste management assistance division of the department.

Approved March 5, 2001

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## CHAPTER 8

### ACCESS TO CRIMINAL HISTORY AND ABUSE INFORMATION — DEPARTMENT OF INSPECTIONS AND APPEALS

*H.F. 192*

**AN ACT** authorizing certain criminal history and abuse record and registry access to the department of inspections and appeals for purposes of data verification and record checks of applicants for employment with the department.

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

Section 1. Section 135C.33, subsection 6, Code 2001, is amended to read as follows:

6. a. The department of inspections and appeals, in conjunction with other departments and agencies of state government involved with criminal history and abuse registry information, shall establish a single contact repository for facilities and other providers to have electronic access to data to perform background checks for purposes of employment, as required of the facilities and other providers under this section.

b. The department may access the single contact repository for any of the following purposes:

(1) To verify data transferred from the department's nurse aide registry to the repository.

(2) To conduct record checks of applicants for employment with the department.

Sec. 2. Section 235A.15, subsection 2, paragraph e, Code 2001, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (17) To the department of inspections and appeals for purposes of record checks of applicants for employment with the department of inspections and appeals.

Sec. 3. Section 235B.6, subsection 2, paragraph e, Code 2001, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (10) The department of inspections and appeals for purposes of record checks of applicants for employment with the department of inspections and appeals.

Approved March 8, 2001

## CHAPTER 9

### EXPENSES RELATED TO REGULATION OF PUBLIC UTILITIES — ASSESSMENTS

S.F. 279

**AN ACT** relating to allocation and payment of expenses arising from performance of duties by the Iowa utilities board and the consumer advocate, providing for a report by the Iowa utilities board, and providing an effective date.

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

Section 1. Section 476.10, unnumbered paragraphs 1, 2, and 3, Code 2001, are amended to read as follows:

~~When the board deems it necessary in~~ In order to carry out the duties imposed upon it by this chapter for the purpose of determining rate matters to investigate the books, accounts, practices, and activities of, or make appraisals of the property of any public utility, or to render any engineering or accounting services to any public utility, or to review the operations or annual reports of the public utility under section 476.31 or 476.32, or to evaluate a proposal for reorganization under section 476.77, the public utility shall pay the expense reasonably attributable to the investigation, appraisal, service, or review ~~law, the board may, at its discretion, allocate and charge directly the expenses attributable to its duties to the person bringing a proceeding before the board or to persons participating in matters before the board.~~ The board shall ascertain the ~~expenses including~~ certified expenses incurred and directly chargeable by the consumer advocate division of the department of justice directly chargeable to the public utility under section 475A.6, and shall render ~~in the performance of its duties.~~ The board and the consumer advocate separately may decide ~~not to charge expenses to persons who, without expanding the scope of the proceeding or matter, intervene in good faith in a board proceeding initiated by a person subject to the board's jurisdiction, the consumer advocate, or the board on its own motion.~~ For assessments in any proceedings or matters before the board, the board and the consumer advocate separately may consider the financial resources of the person, the impact of assessment on participation by intervenors, the nature of the proceeding or matter, and the contribution of a person's participation to the public interest. ~~The board may present a bill for expenses under this paragraph to the public utility person, either at the conclusion of the investigation, appraisal, services, or review a proceeding or matter, or from time to time during its progress, which.~~ Presentation of a bill is for expenses under this paragraph constitutes notice of the direct assessment and shall demand request for payment in accordance with this section. The total amount of such expense in any one calendar year, for which any public utility shall become liable, shall not exceed two tenths of one percent of its gross operating revenues derived from intrastate public utility operations in the last preceding calendar year.

The board shall ascertain the total of the division's ~~expenditures~~ expenses incurred during each fiscal year ~~which are reasonably attributable to~~ in the performance of its duties under this chapter ~~law.~~ The board shall add to this ~~the total of the division's expenses~~ the certified expenses of the consumer advocate as provided under section 475A.6 ~~and.~~ The board shall deduct all amounts chargeable directly to any specific utility under any law charged directly to any person from the total expenses of the board and the consumer advocate. ~~The remainder shall be assessed by the board~~ may assess the amount remaining after the deduction to the public utilities ~~all persons providing service over which the board has jurisdiction~~ in proportion to their ~~the~~ respective gross operating revenues of such persons from intrastate operations during the last calendar year ~~derived from intrastate public utility operations and may be assessed by the board on a quarterly basis~~ over which the board has jurisdiction. For purposes of determining gross operating revenues under this section, the board shall not include gross receipts received by a cooperative corporation or

association for wholesale transactions with members of the cooperative corporation or association, provided that the members are subject to assessment by the board based upon the members' gross operating revenues, or provided that such a member is an association whose members are subject to assessment by the board based upon the members' gross operating revenues. Assessments may be made quarterly. If any portion of the remainder can be identified with a specific type of utility service, the board shall assess those expenses only to the entities providing that type of service over which the board has jurisdiction. The board may make the remainder assessments under this paragraph on a quarterly basis, based upon estimates of the utilities division's and the consumer advocate's expenditures for the fiscal year for the utilities division and the consumer advocate. Beginning with the fiscal year beginning July 1, 1987, the first assessment for any fiscal year may be made by the utilities division by May 15 of the preceding fiscal year and shall be paid by the utility on or before the following July 1. Not more than ninety days following the close of the fiscal year, the utilities division shall conform the amount of the prior fiscal year's assessments to the requirements of this section paragraph. Public utilities exempt from rate regulation under this chapter shall not be assessed for remainder expenses incurred during review of rate-regulated public utilities under section 476.31 or 476.32, but such remainder expenses shall be assessed proportionally as provided in this section among only the rate regulated public utilities. The total amount which may be assessed to the public utilities under authority of this paragraph shall not exceed two tenths of one percent of the total gross operating revenues of the public utilities during the calendar year derived from intrastate public utility operations. However, the total amount which may be assessed in any one calendar year to a public utility under this section shall not exceed three tenths of one percent of the utility's total gross operating revenues derived from intrastate public utility operation in the last preceding year. For gas and electric public utilities exempted from rate regulation under pursuant to this chapter, the remainder assessments under this paragraph shall be computed at one-half the rate used in computing the assessment for other utilities persons.

Each utility A person subject to a charge or assessment shall pay the division the amount charged or assessed against it the person within thirty days from the time the division mails provides notice to it the person of the amount due, unless it shall file with the board objections the person files an objection in writing with the board, setting out the grounds upon which it the person claims that such charge or assessment is excessive, unreasonable, erroneous, unlawful, or invalid. Upon the filing of such objections receipt of an objection, the board shall set the matter down for hearing and issue its order in accordance with its findings in such the proceeding, which.

The order shall be subject to review in the manner provided in this chapter. All amounts collected by the division pursuant to the provisions of this section shall be deposited with the state treasurer of state and credited to the general fund of the state. Such amounts shall be spent in accordance with the provisions of chapter 8.

Sec. 2. UTILITIES BOARD REPORT. The utilities board shall submit a written report to the general assembly on or before March 1, 2002, regarding the direct and remainder assessments made pursuant to this Act. The utilities board shall indicate for both direct and remainder assessments the amount of the assessment and the party to whom it was assessed. The utilities board shall also provide a comparison of the assessments made to the same parties under the previous statute. The utilities board may also address additional issues or information that it deems useful to the general assembly in reviewing the statutory changes.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 14, 2001

## CHAPTER 10

### PAID TIME OFF FOR INJURED DEPARTMENT OF PUBLIC SAFETY PEACE OFFICERS

*H.F. 154*

**AN ACT** concerning paid time off for certain peace officer members of the department of public safety injured in the course of duty.

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

Section 1. Section 80.8, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Peace officer members of the department excluded from the provisions of chapter 20 who are injured in the line of duty shall receive paid time off in the same manner as provided to peace officer members of the department covered by a collective bargaining agreement entered into between the state and the employee organization representing such covered peace officer members under chapter 20.

Approved March 14, 2001

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## CHAPTER 11

### IOWA ECONOMIC DEVELOPMENT BOARD STRATEGIC PLANNING DUTIES

*H.F. 230*

**AN ACT** amending the strategic planning duties of the Iowa economic development board.

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

Section 1. Section 15.104, subsections 1, 2, 3, and 8, Code 2001, are amended to read as follows:

1. ~~Develop and coordinate the implementation of a twenty-year comprehensive economic development plan of specific goals, objectives, and policies for the state. This plan shall be updated annually and revised as necessary. All other state agencies involved in economic development activities shall annually submit to the board for its review and potential inclusion in the plan their goals, objectives, and policies.~~

2. Prepare a ~~five-year~~ three-year comprehensive strategic plan ~~of specific goals, objectives, and policies~~ for state economic growth ~~to implement the specific comprehensive goals, objectives, and policies of the state.~~ All other state agencies involved in economic development activities shall annually submit to the board for its review and potential inclusion in the strategic plan their specific strategic plans and programs. The ~~five-year~~ three-year strategic plan for state economic growth shall be updated annually.

3. Develop a method of evaluation of the attainment of goals and objectives from pursuing the policies of the ~~five-year and twenty-year plans~~ three-year plan.

8. Review grants or contracts awarded by the department, with respect to the department's adherence to the guidelines and procedures and the impact on the ~~five-year~~ three-year strategic plan for economic growth.

Sec. 2. Section 15.106, subsection 8, Code 2001, is amended to read as follows:

8. Seek to implement the plans comprehensive strategic plan approved by the board under section 15.104, ~~subsections 1 and~~ subsection 2.

Approved March 14, 2001

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## CHAPTER 12

### COOPERATIVE ASSOCIATIONS — MEMBERS, NONMEMBERS, AND MEMBERSHIPS — FICTITIOUS NAMES

*H.F. 286*

AN ACT permitting cooperative associations to deal with nonmembers, to use fictitious names, and to issue memberships without charge; to permit electric cooperatives to have multiple classes of members; and providing an effective date.

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

Section 1. Section 499.3, Code 2001, is amended to read as follows:  
499.3 DEALING WITH NONMEMBERS.

A nonstock livestock shipping association shall not handle livestock of any nonmembers. Any association may restrict the amount of business done with nonmembers and may limit its dealings or any class thereof to members only.

~~No association shall, during any year, deal or function with or for nonmembers to an extent exceeding one half of the value of business done. This provision shall not apply to its sales or services to municipal or governmental bodies; nor to agricultural associations' purchases from or sales to corporate landowners who are not primarily engaged in the business of farming.~~

Sec. 2. Section 499.4, Code 2001, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** This chapter does not control the use of fictitious names; however, if a cooperative association or a foreign cooperative association uses a fictitious name in this state, it shall deliver to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

Sec. 3. Section 499.14, Code 2001, is amended to read as follows:  
499.14 MEMBERSHIP IN NONSTOCK ASSOCIATIONS.

Membership in associations without capital stock may be acquired by eligible parties in the manner provided in the articles, which shall specify the rights of members, the issuing price of memberships, if any, and what, if any, fixed dividends accrue thereon. If the articles so provide, membership shall be of two classes, voting and nonvoting. Voting members shall be agricultural producers, and all other members shall be nonvoting members. Nonvoting members shall have all the rights of membership except the right to vote.

Sec. 4. Section 499.14A, Code 2001, is amended to read as follows:

499.14A ELECTRIC COOPERATIVE ASSOCIATION MEMBERSHIPS.

An electric ~~generation and transmission~~ cooperative association may have one or more classes of members. Qualifications, requirements, methods of acceptance, terms, conditions, termination, and other incidents of membership shall be set forth in the ~~bylaws~~

~~articles of incorporation of the association. An electric utility as defined in section 476.22 and a person who generates or transmits electric power for sale at wholesale to an electric utility may become a member in accordance with the bylaws.~~

Sec. 5. Section 499.16, Code 2001, is amended to read as follows:

499.16 SUBSCRIPTIONS — ISSUING CERTIFICATES.

If permitted by the association's articles of incorporation, any eligible subscriber for common stock or membership may vote and be treated as a member, after making part payment of the amount, if any, required to be paid for the common stock or membership in cash, giving the subscriber's note for the balance, and satisfying any other requirement for the subscription as set forth in the articles. A subscription may be forfeited as provided in section 499.32. Stock or a membership certificate shall not be issued until payment of the amount, if any, required to be paid for the stock or membership certificate is fully made. A subscriber shall not hold office until the subscriber's certificate has been issued.

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 14, 2001

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## CHAPTER 13

### REGULATION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS

H.F. 325

AN ACT relating to regulation of multiple employer welfare arrangements by the commissioner of insurance, repealing the future repeal date for such regulation, and providing an effective date.

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

Section 1. Section 507A.4, subsection 10, Code 2001, is amended to read as follows:

10. a. Transactions involving a multiple employer welfare arrangement, as defined in section 3 of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002, paragraph 40, if the multiple employer welfare arrangement meets all of the following conditions:

(1) The arrangement is administered by an authorized insurer or an authorized third-party administrator.

(2) The arrangement has been in existence and provided health insurance in Iowa for at least five years prior to July 1, 1997.

(3) The arrangement was established by a trade, industry, or professional association of employers that has a constitution or bylaws, and has been organized and maintained in good faith for at least ten continuous years prior to July 1, 1997.

(4) The arrangement registers with and obtains a certificate of registration issued by the commissioner of insurance.

(5) The arrangement is subject to the jurisdiction of the commissioner of insurance, including regulatory oversight and solvency standards as established by rules adopted by the commissioner of insurance pursuant to chapter 17A.

b. A multiple employer welfare arrangement registered with the commissioner of insurance ~~which that~~ does not meet the solvency standards established by rule adopted by the commissioner of insurance is subject to chapter 507C.



c. A multiple employer welfare arrangement that meets all of the conditions of paragraph "a" shall not be considered any of the following:

- (1) An insurance company or association of any kind or character under section 432.1.
- (2) A member of the Iowa individual health benefit reinsurance association under section 513C.10.
- (3) A member insurer of the Iowa life and health insurance guaranty association under section 508C.5, subsection 8.

d. A multiple employer welfare arrangement registered with the commissioner of insurance shall file with the commissioner of insurance on or before March 1 of each year a copy of the report required to be filed with the United States department of labor pursuant to 29 C.F.R. § 2520.101-2.

e. A multiple employer welfare arrangement registered with the commissioner of insurance shall file with the commissioner of insurance on or before March 1 of each year an annual report containing all of the following information regarding the multiple employer welfare arrangement:

- (1) The number of participants.
- (2) The amount of premium collected.
- (3) Those special health and accident coverages under chapter 514C provided by the multiple welfare arrangement.

f. The reports filed by the multiple employer welfare arrangements pursuant to paragraph "e" shall be compiled by the insurance division and filed annually with the general assembly by March 30. The compilation shall include the following information:

- (1) A computation of the amount of premium tax that would have been paid by the multiple employer welfare arrangements if the arrangements had been insurance companies.
- (2) A computation of the amount that would have been assessed by the Iowa individual health benefit reinsurance association to the multiple employer welfare arrangements if the arrangements had been members of the Iowa individual health benefit reinsurance association.

Sec. 2. INTERIM STUDY. The legislative council is requested to authorize an interim study committee to review the current status of the health insurance market in Iowa with regard to multiple employer welfare arrangements presently registered with the commissioner of insurance, and whether or not additional multiple employer welfare arrangements should be permitted to operate in Iowa. The study shall include a review of the regulatory oversight of all health insurance products sold in Iowa, and report on the conditions of the health insurance market in Iowa. The study committee shall be composed of representatives of the general assembly, the insurance division, the insurance industry, the business community, and such other interests as the legislative council deems appropriate. Appointments to the committee shall be made no later than June 15, 2001. Staffing for the committee shall be provided by the legislative service bureau. The study committee shall submit a report of findings and recommendations, including proposed legislation, if any, to the general assembly on or before November 15, 2001.

Sec. 3. 1994 Iowa Acts, chapter 1038, section 3, as amended by 1995 Iowa Acts, chapter 33, section 1; 1996 Iowa Acts, chapter 1024, section 1; 1997 Iowa Acts, chapter 67, section 2; and 1998 Iowa Acts, chapter 1012, section 1, is repealed.

Sec. 4. Section 507A.4, subsection 10, paragraphs e and f, as enacted in this Act, are amended by striking the paragraphs effective July 1, 2002.

Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 14, 2001

## CHAPTER 14

### INTERSTATE WILDLIFE VIOLATORS COMPACT MEMBERSHIP

S.F. 125

AN ACT relating to membership in an interstate wildlife violators compact by the department of natural resources.

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

Section 1. Section 456A.24, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 14. Enter into an interstate wildlife violators compact with one or more states to enforce state laws and rules relating to the protection and conservation of wildlife subject to the requirements of section 28E.9. The commission may adopt rules as necessary for the implementation of the compact.

Approved March 22, 2001

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## CHAPTER 15

### INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

H.F. 287

AN ACT establishing the interstate compact for adult criminal offender supervision and providing a contingent effective date.

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

Section 1. Section 422.7, subsection 12, paragraph c, Code 2001, is amended to read as follows:

c. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate ~~probation and parole~~ compact for adult offenders under ~~section 907A.1~~ chapter 907B applies.

Sec. 2. Section 422.7, subsection 12A, paragraph b, Code 2001, is amended to read as follows:

b. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate ~~probation and parole~~ compact for adult offenders under ~~section 907A.1~~ chapter 907B applies.

Sec. 3. Section 422.35, subsection 6, paragraph c, Code 2001, is amended to read as follows:

c. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate ~~probation and parole~~ compact for adult offenders under ~~section 907A.1~~ chapter 907B applies.

Sec. 4. Section 422.35, subsection 6A, paragraph b, Code 2001, is amended to read as follows:

b. An individual, whether or not domiciled in this state at the time of the hiring, who is on parole or probation and to whom the interstate ~~probation and parole~~ compact for adult offenders under ~~section 907A.1~~ chapter 907B applies.

Sec. 5. NEW SECTION. 907B.1 CITATION.

This chapter may be cited as the "Interstate Compact for Adult Offender Supervision".

Sec. 6. NEW SECTION. 907B.2 INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION.

The national interstate compact for adult offender supervision is enacted into law and entered into by this state with any other state or jurisdiction legally joining the compact in the form substantially as follows:

ARTICLE I  
DEFINITIONS

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

1. ADULT. "Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

2. BYLAWS. "Bylaws" means those bylaws established by the interstate commission for its governance, or for directing or controlling the interstate commission's actions or conduct.

3. COMPACT ADMINISTRATOR. "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the interstate commission and policies adopted by the state council under this compact.

4. COMPACTING STATE. "Compacting state" means any state which has enacted the enabling legislation for this compact.

5. COMMISSIONER. "Commissioner" means the voting representative of each compacting state appointed pursuant to article II of this compact.

6. INTERSTATE COMMISSION. "Interstate commission" means the interstate commission for adult offender supervision established by this compact.

7. MEMBER. "Member" means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

8. NONCOMPACTING STATE. "Noncompacting state" means any state which has not enacted the enabling legislation for this compact.

9. OFFENDER. "Offender" means an adult placed under, or subject to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

10. PERSON. "Person" means any individual, corporation, business enterprise, or other legal entity, either public or private.

11. RULES. "Rules" means acts of the interstate commission, duly promulgated pursuant to article VII of this compact, substantially affecting interested parties in addition to the interstate commission, which shall have the force and effect of law in the compacting states.

12. STATE. "State" means a state of the United States, the District of Columbia and any other territorial possessions of the United States.

13. STATE COUNCIL. "State council" means the resident members of the state council for interstate adult offender supervision created by each state under article III of this compact.

ARTICLE II  
THE COMPACT COMMISSION

1. The compacting states hereby create the interstate commission for adult offender supervision. The interstate commission shall be a body corporate and joint agency of the compacting states. The interstate commission shall have all the responsibilities, powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

2. The interstate commission shall consist of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state. The commission shall include at least one commissioner from a minority group.

3. In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations; such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. All noncommissioner members of the interstate commission shall be ex officio members. The interstate commission may provide in its bylaws for such additional, ex officio, nonvoting members as it deems necessary.

4. Each compacting state represented at any meeting of the interstate commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

5. The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of twenty-seven or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

6. The interstate commission shall establish an executive committee which shall include commission officers, members and others as shall be determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking and amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and interstate commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws and as directed by the interstate commission and performs other duties as directed by commission or set forth in the bylaws.

### ARTICLE III THE STATE COUNCIL

Each member state shall create a state council for interstate adult offender supervision which shall be responsible for the appointment of the commissioner who shall serve on the interstate commission from that state. Each state council shall appoint as its commissioner the compact administrator from that state to serve on the interstate commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims groups and compact administrators. Each compacting state retains the right to determine the qualifications of the compact administrator who shall be appointed by the state council or by the governor in consultation with the legislature and the judiciary. In addition to appointment of its commissioner to the interstate commission, each state council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state including but not limited to, development of policy concerning operations and procedures of the compact within that state.

### ARTICLE IV POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

1. To adopt a seal and suitable bylaws governing the management and operation of the interstate commission.

2. To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

3. To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the interstate commission.

4. To enforce compliance with compact provisions, interstate commission rules, and by-laws, using all necessary and proper means, including but not limited to, the use of judicial process.

5. To establish and maintain offices.

6. To purchase and maintain insurance and bonds.

7. To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.

8. To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by article II which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder.

9. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of same.

11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

13. To establish a budget and make expenditures and levy dues as provided in article IX of this compact.

14. To sue and be sued.

15. To provide for dispute resolution among compacting states.

16. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

17. To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

18. To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity.

19. To establish uniform standards for the reporting, collecting, and exchanging of data.

## ARTICLE V

### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

1. BYLAWS. The interstate commission shall, by a majority of the members, within twelve months of the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

a. Establishing the fiscal year of the interstate commission.

b. Establishing an executive committee and such other committees as may be necessary.

c. Providing reasonable standards and procedures:

(1) For the establishment of committees.

(2) Governing any general or specific delegation of any authority or function of the interstate commission;

d. Providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting.

e. Establishing the titles and responsibilities of the officers of the interstate commission.

f. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the interstate commission.

g. Providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment or reserving of all of its debts and obligations.

h. Providing transition rules for startup administration of the compact.

i. Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

## 2. OFFICERS AND STAFF.

a. The interstate commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

b. The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, and hire and supervise such other staff as may be authorized by the interstate commission, but shall not be a member.

3. CORPORATE RECORDS OF THE INTERSTATE COMMISSION. The interstate commission shall maintain its corporate books and records in accordance with the bylaws.

## 4. QUALIFIED IMMUNITY, DEFENSE AND INDEMNIFICATION.

a. The members, officers, executive director and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit and liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person.

b. The interstate commission shall defend the commissioner of a compacting state, or the commissioner's representatives or employees, or the interstate commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities; provided, that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

c. The interstate commission shall indemnify and hold the commissioner of a compacting state, the appointed designee or employees, or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate com-

mission employment, duties or responsibilities, provided, that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

#### ARTICLE VI ACTIVITIES OF THE INTERSTATE COMMISSION

1. The interstate commission shall meet and take such actions as are consistent with the provisions of this compact.

2. Except as otherwise provided in this compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the interstate commission, such act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

3. Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

4. The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

5. The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

6. Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall promulgate rules consistent with the principles contained in the federal Government in Sunshine Act, 5 U.S.C. § 552(6), as may be amended. The interstate commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

- a. Relate solely to the interstate commission's internal personnel practices and procedures.
- b. Disclose matters specifically exempted from disclosure by statute.
- c. Disclose trade secrets or commercial or financial information which is privileged or confidential.
- d. Involve accusing any person of a crime, or formally censuring any person.
- e. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
- f. Disclose investigatory records compiled for law enforcement purposes.
- g. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of such entity.

h. Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity.

i. Specifically relate to the interstate commission's issuance of a subpoena, or its participation in a civil action or proceeding.

7. For every meeting closed pursuant to this provision, the interstate commission's chief legal officer shall publicly certify that, in the officer's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in such minutes.

8. The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

#### ARTICLE VII RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

1. The interstate commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

2. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C. § 551 et seq., and the federal Advisory Committee Act, 5 U.S.C. app. 2, § 1 et seq., as may be amended.

3. All rules and amendments shall become binding as of the date specified in each rule or amendment.

4. If a majority of the legislatures of the compacting states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

5. When promulgating a rule, the interstate commission shall do all of the following:

a. Publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule.

b. Allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available.

c. Provide an opportunity for an informal hearing.

d. Promulgate a final rule and its effective date, if appropriate, based on the rulemaking record.

6. Not later than sixty days after a rule is promulgated, any interested person may file a petition in the United States district court for the District of Columbia or in the United States district court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence, as defined in the federal Administrative Procedure Act, in the rulemaking record, the court shall hold the rule unlawful and set it aside.

7. Subjects to be addressed within twelve months after the first meeting must at a minimum include:

a. Notice to victims and opportunity to be heard.

b. Offender registration and compliance.

c. Violations and returns.

d. Transfer procedures and forms.

e. Eligibility for transfer.

f. Collection of restitution and fees from offenders.



- g. Data collection and reporting.
  - h. The level of supervision to be provided by the receiving state.
  - i. Transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact.
  - j. Mediation, arbitration and dispute resolution. The existing rules governing the operation of the previous compact superceded by this Act shall be null and void twelve months after the first meeting of the interstate commission created hereunder.
8. Upon determination by the interstate commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than ninety days after the effective date of the rule.

ARTICLE VIII  
OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION  
BY THE INTERSTATE COMMISSION

1. OVERSIGHT.

- a. The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.
- b. The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

2. DISPUTE RESOLUTION.

- a. The compacting states shall report to the interstate commission on issues or activities of concern to them, and cooperate with and support the interstate commission in the discharge of its duties and responsibilities.
- b. The interstate commission shall attempt to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and noncompacting states.
- c. The interstate commission shall enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

3. ENFORCEMENT. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in article XI, subsection 2, of this compact.

ARTICLE IX  
FINANCE

- 1. The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.
- 2. The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate

movement of offenders in each compacting state and shall promulgate a rule binding upon all compacting states which governs the assessment.

3. The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

4. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

#### ARTICLE X COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

1. Any state, as defined in article I of this compact, is eligible to become a compacting state.

2. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five of the states. The initial effective date shall be the later of July 1, 2002, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter it shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of nonmember states or their designees will be invited to participate in interstate commission activities on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

3. Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

#### ARTICLE XI WITHDRAWAL, DEFAULT, AND TERMINATION, AND JUDICIAL ENFORCEMENT

##### 1. WITHDRAWAL.

a. Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided, that a compacting state may withdraw from the compact by enacting a statute specifically repealing the statute which enacted the compact into law.

b. The effective date of withdrawal is the effective date of the repeal.

c. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state.

d. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty days of its receipt thereof.

e. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

f. Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

##### 2. DEFAULT.

a. If the interstate commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact,

the bylaws or any duly promulgated rules the interstate commission may impose any or all of the following penalties:

(1) Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission.

(2) Remedial training and technical assistance as directed by the interstate commission.

(3) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice of the state; the majority and minority leaders of the defaulting state's legislature, and the executive council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, interstate commission bylaws, or duly promulgated rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of suspension.

b. Within sixty days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice, and the majority and minority leaders of the defaulting state's legislature and the executive council of such termination.

c. The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

d. The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state.

e. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to the rules.

3. JUDICIAL ENFORCEMENT. The interstate commission may, by majority vote of the members, initiate legal action in the United States district court for the District of Columbia or, at the discretion of the interstate commission, in the United States district court where the interstate commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

#### 4. DISSOLUTION OF COMPACT.

a. The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to one compacting state.

b. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

### ARTICLE XII SEVERABILITY AND CONSTRUCTION

1. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

2. The provisions of this compact shall be liberally constructed to effectuate its purposes.

ARTICLE XIII  
BINDING EFFECT OF COMPACT AND OTHER LAWS

1. OTHER LAWS.

a. Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

b. All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

2. BINDING EFFECT OF THE COMPACT.

a. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states.

b. All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

c. Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

d. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Sec. 7. NEW SECTION. 907B.3 STATE COUNCIL.

The state council established in section 907B.2 shall consist of five members plus the compact administrator. The council shall include at least one member from a minority group. The chief justice of the supreme court shall appoint one member to represent the judicial branch. The president of the senate shall appoint one member to represent the senate. The speaker of the house of representatives shall appoint one member to represent the house of representatives. The governor shall appoint one member to represent the executive branch, and one member to represent crime victim groups. The governor, in consultation with the legislative and judicial branches, shall also appoint the compact administrator.

Sec. 8. Chapter 907A, Code 2001, is repealed.

Approved March 26, 2001

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**CHAPTER 16**

LICENSURE OF INSURANCE PRODUCERS —  
DEREGULATION OF LEGAL EXPENSE INSURANCE

S.F. 276

**AN ACT** relating to the licensure of persons acting as insurance producers, providing an effective date, and applying penalties.

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

Section 1. Section 272C.1, subsection 6, paragraph z, Code 2001, is amended to read as follows:

z. The commissioner of insurance in licensing insurance ~~agents~~ producers pursuant to chapter ~~522 522B~~, except those ~~agents~~ producers authorized to sell only credit life ~~and credit accident and health insurance~~ or crop insurance.

Sec. 2. Section 272C.3, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon any of the grounds specified in section 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 542B.21, 542C.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151, 155, 507B, ~~or 522 522B~~, as applicable, or upon any other grounds specifically provided for in this chapter for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline;

Sec. 3. Section 272C.4, subsection 6, Code 2001, is amended to read as follows:

6. Define by rule acts or omissions which are grounds for revocation or suspension of a license under section 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.191, 542B.21, 542C.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151, 155, 507B, ~~or 522 522B~~, as applicable, and to define by rule acts or omissions which constitute negligence, careless acts or omissions within the meaning of section 272C.3, subsection 2, paragraph "b", which licensees are required to report to the board pursuant to section 272C.9, subsection 2;

Sec. 4. Section 422.45, subsection 27, paragraph d, subparagraph (3), Code 2001, is amended to read as follows:

(3) "Insurance company" means an insurer organized or operating under chapter 508, 514, 515, 518, 518A, 519, or 520, or authorized to do business in Iowa as an insurer or a ~~licensed insurance agent~~ an insurance producer under chapter ~~522 522B~~.

Sec. 5. Section 502.102, subsection 11, paragraph d, Code 2001, is amended to read as follows:

d. As used in this subsection, "compensation" does not include a commission, fee, or a combination of a commission and a fee, which is paid to an insurance ~~agent~~ producer licensed under chapter ~~522 522B~~, if the insurance ~~agent~~ producer receives the commission, fee, or the combination of a commission and a fee, for the sale of insurance as regulated pursuant to Title XIII, subtitle 1.

Sec. 6. Section 502.304, subsection 1, paragraph e, Code 2001, is amended to read as follows:

e. Is the subject of an order of the administrator denying, suspending, or revoking registration as a broker-dealer, agent, investment adviser, investment adviser representative, or insurance ~~agent~~ producer;

Sec. 7. Section 508A.5, Code 2001, is amended to read as follows:

508A.5 OTHER PROVISIONS APPLICABLE.

Except for section 508.37 and section 509.2, subsection 1, and except as otherwise provided in this chapter, all pertinent provisions of chapters 508, 509, 511, and ~~522 522B~~ shall apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract, delivered or issued for delivery in this state, shall contain nonforfeiture provisions appropriate to such a contract. Any group variable life insurance contract, delivered or issued for delivery in this state, shall contain a grace provision appropriate to such a contract. The reserve liability for variable contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

Sec. 8. Section 511.4, Code 2001, is amended to read as follows:

511.4 ADVERTISEMENTS — WHO DEEMED AGENT.

The provisions of ~~sections 515.122 to 515.126~~ section 515.125 shall apply to life insurance companies and associations.

Sec. 9. Section 515.125, Code 2001, is amended to read as follows:

515.125 ~~AGENT—SPECIFIC DEFINITION AGENCY RELATIONSHIP.~~

Any officer, ~~agent~~ insurance producer, or representative of an insurance company doing business in this state who may solicit insurance, procure applications, issue policies, adjust losses, or transact the business generally of such companies, shall be held to be the agent of such insurance company with authority to transact all business within the scope of the ~~agent's employment~~ agency relationship, anything in the application, policy, contract, by-laws, or articles of incorporation of such company to the contrary notwithstanding.

Sec. 10. Section 516A.1, unnumbered paragraph 2, Code 2001, is amended to read as follows:

However, the named insured may reject all of such coverage, or reject the uninsured motor vehicle (hit-and-run motor vehicle) coverage, or reject the underinsured motor vehicle coverage, by written rejections signed by the named insured. If rejection is made on a form or document furnished by an insurance company or insurance ~~agent~~ producer, it shall be on a separate sheet of paper which contains only the rejection and information directly related to it. Such coverage need not be provided in or supplemental to a renewal policy if the named insured has rejected the coverage in connection with a policy previously issued to the named insured by the same insurer.

Sec. 11. Section 521A.2, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. Acting as an insurance ~~broker or as an insurance agent~~ producer for its parent or for any of its parent's insurer subsidiaries or intermediate insurer subsidiaries.

Sec. 12. Section 522A.3, subsection 1, Code 2001, is amended to read as follows:

1. Notwithstanding the provisions of chapter ~~522~~ 522B, the commissioner may issue a limited license to a rental company that has complied with the requirements of this chapter. The limited license shall authorize the limited licensee to offer or sell insurance with the rental of vehicles.

Sec. 13. Section 523H.1, subsection 3, paragraph c, Code 2001, is amended to read as follows:

c. "Franchise" also does not include any contract under which a petroleum retailer or petroleum distributor is authorized or permitted to occupy leased marketing premises, which premises are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by a refiner which is regulated by the federal Petroleum Marketing Practices Act, 15 U.S.C. § 2801 et seq. The term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person. "Franchise" also does not include a contract entered into by any person regulated under chapter 123, 322, 322A, 322B, 322C, 322D, 322F, ~~522~~ 522B, or 543B, or a contract establishing a franchise relationship with respect to the sale of construction equipment, lawn or garden equipment, or real estate.

Sec. 14. Section 514B.19, Code 2001, is amended to read as follows:

514B.19 REGULATION OF AGENTS INSURANCE PRODUCERS.

The commissioner may, after notice and hearing, promulgate such reasonable rules under the provisions of chapter ~~522~~ 522B that are necessary to provide for the licensing of agents insurance producers who engage in solicitation or enrollment for a health maintenance organization.

Sec. 15. NEW SECTION. 522B.1 DEFINITIONS.

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

1. "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.
2. "Commissioner" means the commissioner of insurance.
3. "Home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains the producer's principal place of residence or principal place of business and is licensed to act as an insurance producer.
4. "Insurance" means any of the lines of authority an insurer is authorized to sell in this state.
5. "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.
6. "Insurer" means a person engaged in the business of insurance who is licensed under chapter 508, 512B, 515, or 520.
7. "License" means a document issued pursuant to this chapter by the commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. A license by itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit an insurer.
8. "Limited lines insurance" means any authority granted by the home state which restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to section 522B.6, subsection 2, paragraphs "a" through "f", and any other line of insurance that the commissioner may deem it necessary to recognize for the purposes of complying with section 522B.7, subsection 4.
9. "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.
10. "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.
11. "Person" means an individual or a business entity.
12. "Producer database" means the national database of insurance producers maintained by the national association of insurance commissioners, its affiliates, or subsidiaries.
13. "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.
14. "Solicit" or "solicitation" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.
15. "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of an insurance producer's authority to transact insurance.
16. "Uniform application" means the current version of the national association of insurance commissioners uniform application for resident and nonresident insurance producer licensing.
17. "Uniform business entity application" means the current version of the national association of insurance commissioners uniform business entity application for resident and nonresident business entities.

Sec. 16. NEW SECTION. 522B.2 LICENSE REQUIRED.

1. A person shall not sell, solicit, or negotiate insurance in this state for any line of insurance unless the person is licensed as an insurance producer for that line of insurance as provided in this chapter.
2. A person offering to the public, for a fee or commission, to engage in the business of offering any advice, counsel, or service with respect to the benefits, advantages, or disadvantages promised under any policy of insurance must also be licensed as an insurance producer.

Sec. 17. NEW SECTION. 522B.3 EXCEPTIONS TO LICENSING.

1. Nothing in this chapter shall be construed to require an insurer to obtain an insurance producer license. For the purposes of this section, "insurer" does not mean an officer, director, employee, subsidiary, or affiliate of the insurer.

2. A license as an insurance producer shall not be required of any<sup>1</sup> the following:

a. An officer, director, or employee of an insurer or of an insurance producer, provided that the officer, director, or employee does not receive any commission on policies written or sold to insure risks residing, located, or to be performed in this state, and one of the following applies:

(1) The activities of the officer, director, or employee are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance.

(2) The function of the officer, director, or employee relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance.

(3) The officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

b. A person who performs any of the following services and who is not paid a commission for the performance of such service:

(1) Secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance.

(2) Secures and furnishes information for the purpose of enrolling individuals under plans, issuing certificates under plans, or otherwise assisting in administering plans.

(3) Performs administrative services related to mass marketed property and casualty insurance.

c. An employer or association, or an officer, director, or employee of such employer or association, or the trustees of an employee trust plan, to the extent that such employer, association, officer, director, employee, or trustee is engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as such employer, association, officer, director, employee, or trustee is not in any manner compensated, directly or indirectly, by the insurer issuing the contracts.

d. An employee of an insurer, or an organization employed by an insurer, who engages in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers and who is not individually engaged in the sale, solicitation, or negotiation of insurance.

e. A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this state.

f. A person who is not a resident of this state who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state.

g. A salaried full-time employee who counsels or advises the employee's employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission.

<sup>1</sup> According to enrolled Act



- h. A licensed attorney providing surety bonds incident to the attorney's practice.
- i. A person selling transportation tickets of a common carrier of persons or property when that person also sells, in connection with and related to the transportation ticket, a trip and accident insurance policy or an insurance policy on personal effects being carried as baggage.

Sec. 18. NEW SECTION. 522B.4 APPLICATION FOR EXAMINATION.

1. A resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to section 522B.8. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and regulations of this state. The commissioner shall adopt rules pursuant to chapter 17A related to development and conduct of the examination.

2. The commissioner may make arrangements, including contracting with an outside testing service or other appropriate entity, for administering examinations and collecting fees.

3. An individual applying for an examination shall remit a nonrefundable fee as established by rule of the commissioner.

4. An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

Sec. 19. NEW SECTION. 522B.5 APPLICATION FOR LICENSE.

1. A person applying for a resident insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find all of the following:

- a. The individual is at least eighteen years of age.
- b. The individual has not committed any act that is a ground for denial, suspension, or revocation as set forth in section 522B.11.
- c. The individual has paid the license fee of fifty dollars.
- d. The individual has successfully passed the examinations for the lines of authority for which the person has applied.
- e. In order to protect the public interest, the individual has the requisite character and competence to receive a license as an insurance producer.

2. A business entity acting as an insurance producer may elect to obtain an insurance producer license. Application shall be made using the uniform business entity application. Prior to approving the application, the commissioner shall find both of the following:

- a. The business entity has paid the appropriate fees.
- b. The business entity has designated a licensed producer responsible for the business entity's compliance with the insurance laws and rules of this state.

3. The commissioner may require any documents reasonably necessary to verify the information contained in an application.

Sec. 20. NEW SECTION. 522B.6 LICENSE.

1. A person who meets the requirements of sections 522B.4 and 522B.5, unless otherwise denied licensure pursuant to section 522B.11, shall be issued an insurance producer license. An insurance producer license is valid for three years.

2. An insurance producer may qualify for a license in one or more of the following lines of authority:

- a. Life insurance providing coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

- b. Accident and health or sickness insurance providing coverage for sickness, bodily injury, or accidental death, and may include benefits for disability income.

c. Property insurance providing coverage for the direct or consequential loss or damage to property of any kind.

d. Casualty insurance providing coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property.

e. Variable life and variable annuity products insurance providing coverage provided under variable life insurance contracts and variable annuities.

f. Personal lines property and casualty insurance sold to individuals and families primarily for noncommercial purposes.

g. Excess and surplus lines insurance provided by certain nonadmitted insurers pursuant to section 515.147.

h. Credit insurance, including credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing a credit obligation and that the commissioner determines should be designated a form of credit insurance.

i. Any other line of insurance permitted under state law or by rule.

3. An insurance producer license remains in effect unless revoked or suspended as long as all required fees are paid and continuing education requirements for resident individual insurance producers are met by any applicable due date.

4. An individual insurance producer who allows the producer's license to lapse, within twelve months from the due date of the renewal fee, may have the same license reinstated without the necessity of passing a written examination upon the payment of a reinstatement fee as specified by rule of the commissioner. Such reinstatement fee shall be in addition to the required renewal fee.

5. A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance may request a waiver of those procedures. Such insurance producer may also request a waiver of any examination requirement or any other penalty or sanction imposed for failure to comply with renewal procedures.

6. The license shall contain the licensee's name, address, personal identification number, and the date of issuance, the lines of authority, the expiration date, and any other information the commissioner deems necessary.

7. A licensee shall inform the commissioner by any means acceptable to the commissioner of a change of address within thirty days of the change. Failure to timely inform the commissioner of a change in legal name or address may result in a penalty as specified in section 522B.17.

8. In order to assist with the commissioner's duties, the commissioner may contract with a nongovernmental entity, including the national association of insurance commissioners or any affiliate or subsidiary the national association of insurance commissioners oversees, to perform any ministerial functions, including the collection of fees, related to producer licensing, that the commissioner deems appropriate.

Sec. 21. NEW SECTION. 522B.7 NONRESIDENT LICENSING.

1. Unless licensure pursuant to section 522B.11, a nonresident person shall receive a nonresident insurance producer license if all of the following apply:

a. The person is currently licensed as an insurance producer and is in good standing in the person's home state.

b. The person has submitted the proper request for licensure and has paid the required fees.

c. The person has submitted or transmitted to the commissioner the application for licensure that the person submitted to the person's home state, or in lieu of such application, a completed uniform application.

d. The person's home state awards nonresident insurance producer licenses to residents of this state on the same basis.

2. The commissioner may verify the insurance producer's licensing status through the producer database.

3. A nonresident insurance producer who moves from one state to another state or a resident insurance producer who moves from this state to another state shall file a change of address and provide certification from the new resident state within thirty days of the change of legal residence. No fee or license application is required. The certification may be obtained through the producer database.

4. Notwithstanding any other provision of this chapter, a person licensed as a limited lines insurance producer in the person's home state shall receive a nonresident limited lines insurance producer license, pursuant to subsection 1, granting the same scope of authority as granted under the license issued by such person's home state.

Sec. 22. NEW SECTION. 522B.8 EXEMPTION FROM EXAMINATION.

1. An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state shall not be required to complete an examination. This exemption is only available if the person is currently licensed in that other state or if the request for licensure is received within ninety days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state. The certification may be obtained through the producer database.

2. A person licensed as an insurance producer in another state who moves to this state shall make application within ninety days of establishing legal residence to become a resident licensee pursuant to section 522B.5. An examination shall not be required of that person to obtain an insurance producer license for any line of authority previously held in the prior state except where the commissioner determines otherwise by regulation.

Sec. 23. NEW SECTION. 522B.9 ASSUMED NAMES.

An insurance producer doing business under any name other than the insurance producer's legal name is required to notify the commissioner prior to using the assumed name.

Sec. 24. NEW SECTION. 522B.10 TEMPORARY LICENSING.

1. The commissioner may issue a temporary insurance producer license for a period not to exceed one hundred eighty days without requiring an examination if the commissioner deems that the temporary license is necessary for the servicing of an insurance business in the following cases:

a. To the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled, to allow adequate time for the sale of the insurance business owned by the insurance producer, for the recovery or return of the insurance producer to the business, or for the training and licensing of new personnel to operate the insurance producer's business.

b. To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license.

c. To the designee of a licensed insurance producer entering active service in the armed forces of the United States.

d. In any other circumstance where the commissioner deems that the public interest will best be served by the issuance of a temporary license.

2. The commissioner may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The commissioner may require the temporary licensee to have a suitable sponsor who is a licensed insurance producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The com-

missioner may by order revoke a temporary license if the interest of insureds or the public is endangered. A temporary license shall not continue after the owner or the personal representative disposes of the business.

Sec. 25. NEW SECTION. 522B.11 LICENSE DENIAL, NONRENEWAL, OR REVOCATION.

1. The commissioner may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty as provided in section 522B.17 for any one or more of the following causes:

a. Providing incorrect, misleading, incomplete, or materially untrue information in the license application.

b. Violating any insurance laws, or violating any regulation, subpoena, or order of the commissioner or of a commissioner of another state.

c. Obtaining or attempting to obtain a license through misrepresentation or fraud.

d. Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business.

e. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

f. Having been convicted of a felony.

g. Having admitted or been found to have committed any unfair insurance trade practice or fraud.

h. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

i. Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.

j. Forging another's name to an application for insurance or to any document related to an insurance transaction.

k. Improperly using notes or any other reference material to complete an examination for an insurance license.

l. Knowingly accepting insurance business from an individual who is not licensed.

m. Failing to comply with an administrative or court order imposing a child support obligation.

n. Failing to comply with an administrative or court order related to repayment of loans to the college student aid commission.

o. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

p. Failing or refusing to cooperate in an investigation by the commissioner.

2. If the commissioner does not renew a license or denies an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the licensee or applicant of the reason for the nonrenewal of the license or denial of the application for a license. The licensee or applicant may request a hearing on the nonrenewal or denial. A hearing shall be conducted according to section 507B.6.

3. The license of a business entity may be suspended, revoked, or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by a partner, officer, or manager acting on behalf of the business entity and the violation was not reported to the commissioner and corrective action was not taken.

4. In addition to, or in lieu of, any applicable denial, suspension, or revocation of a license, a person, after hearing, may be subject to a civil penalty as provided in section 522B.17.

5. The commissioner may enforce the provisions and impose any penalty or remedy authorized by this chapter and chapter 507B against any person who is under investigation for, or charged with, a violation of either chapter even if the person's license has been surrendered or has lapsed by operation of law.

Sec. 26. NEW SECTION. 522B.12 COMMISSIONS.

1. An insurer or insurance producer shall not pay a commission, service fee, brokerage, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter and is not so licensed.

2. A person shall not accept a commission, service fee, brokerage, or other valuable consideration for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under this chapter and is not so licensed.

3. Renewal or other deferred commissions may be paid to a person for selling, soliciting, or negotiating insurance in this state if the person was required to be licensed under this chapter at the time of the sale, solicitation, or negotiation and was so licensed at that time.

4. An insurer or insurance producer may pay or assign a commission, service fee, brokerage, or other valuable consideration to an insurance agency or to a person who does not sell, solicit, or negotiate insurance in this state, unless the payment would violate chapter 507B or section 515.130.

Sec. 27. NEW SECTION. 522B.13 APPOINTMENTS.

1. An individual insurance producer who acts as an agent of an insurer must be appointed by that insurer. An insurance producer who is not acting as an agent of an insurer need not be appointed. A business entity is not required to be appointed.

2. The appointing insurer, for the purpose of appointing an insurance producer as its agent, shall file, in a format approved by the commissioner, a notice of appointment within thirty days from the date the agency contract is executed or the first insurance application is submitted.

3. An insurer shall pay an appointment fee, in the amount and method of payment set forth by rule of the commissioner, for each insurance producer appointed by the insurer.

4. An insurer shall remit a renewal appointment fee in the manner and amount as set forth by rule of the commissioner.

Sec. 28. NEW SECTION. 522B.14 NOTIFICATION TO COMMISSIONER OF TERMINATION — PENALTIES.

1. An insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with an insurance producer shall notify the commissioner within thirty days following the effective date of the termination, using a format prescribed by the commissioner, if the reason for termination is one of the reasons set forth in section 522B.11, or the insurer has knowledge the insurance producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities set forth in section 522B.11. Upon request of the commissioner, the insurer or authorized representative of the insurer shall provide additional information, documents, records, or other data pertaining to the termination or activity of the insurance producer.

2. An insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with an insurance producer for any reason not set forth in section 522B.11, shall notify the commissioner within thirty days following the effective date of the termination, using a format prescribed by the commissioner. Upon request of the commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination.

3. The insurer or the authorized representative of the insurer shall promptly notify the commissioner using a format prescribed by the commissioner, if, upon further review or investigation, the insurer or authorized representative of the insurer discovers additional information that would have been reportable to the commissioner pursuant to subsection 1, had the insurer then known of its existence.

4. Within fifteen days after making the notification required by this section, the insurer shall mail a copy of the notification to the insurance producer at the insurance producer's last known address. If the insurance producer is terminated for any of the reasons set forth

in section 522B.11, the insurer shall provide a copy of the notification to the insurance producer at the insurance producer's last known address by restricted certified mail, as defined in section 618.15, or by overnight delivery using a nationally recognized carrier.

5. Within thirty days after the insurance producer has received the original or additional notification, the insurance producer may file written comments concerning the substance of the notification with the commissioner. The insurance producer, by the same means, shall simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the commissioner's record and accompany every copy of a report distributed or disclosed for any reason about the insurance producer, as permitted under subsection 8.

6. In the absence of actual malice, an insurer, the authorized representative of the insurer, an insurance producer, the commissioner, or an organization of which the commissioner is a member and that compiles the information and makes it available to other commissioners or regulatory or law enforcement agencies shall not be subject to civil liability. A civil cause of action of any nature shall not arise against any of these entities or their respective agents or employees, as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the commissioner from an insurer or insurance producer; or a statement by a terminating insurer or insurance producer to an insurer or insurance producer limited solely and exclusively to whether a termination for cause under subsection 1 was reported to the commissioner, provided that the propriety of any termination for cause under subsection 1 is certified in writing by an officer or authorized representative of the insurer or insurance producer terminating the relationship.

In any action brought against a person that may have immunity under this section for making any statement required by this section or providing any information relating to any statement that may be requested by the commissioner, the party bringing the action shall plead specifically in any allegation that this section does not apply because the person making the statement or providing the information did so with actual malice. This section shall not abrogate or modify any existing statutory or common law privileges or immunities.

7. Any document, material, or other information in the control or possession of the insurance division that is furnished by an insurer, insurance producer, or an employee or agent of such insurer or insurance producer acting on behalf of the insurer or insurance producer, or obtained by the commissioner in an investigation pursuant to this section are considered confidential records and shall not be subject to subpoena, or subject to discovery, or admissible in evidence in any private civil action. However, the commissioner is authorized to use such document, material, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's duties.

Neither the commissioner nor any person who received any document, material, or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential document, material, or information subject to this section.

8. The commissioner may share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection 7 with other state, federal, and international regulatory agencies, with the national association of insurance commissioners, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information.

The commissioner may receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the national association of insurance commissioners, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

The commissioner may enter into agreements governing sharing and use of information consistent with this subsection.

9. A waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall not occur as a result of disclosure to the commissioner or sharing of information received under this section.

10. Nothing in this chapter shall prohibit the commissioner from releasing information regarding final, adjudicated actions that are considered public records subject to examination and copying under chapter 22 to a database or other clearinghouse service maintained by the national association of insurance commissioners, or an affiliate or subsidiary of the national association of insurance commissioners.

11. An insurer, the authorized representative of the insurer, or an insurance producer that fails to report as required under this section, or that is found to have reported with actual malice by a court of competent jurisdiction, after notice and hearing, may have its license or certificate of authority suspended or revoked and may be fined<sup>2</sup> as provided in section 522B.17.

Sec. 29. NEW SECTION. 522B.15 RECIPROCITY.

1. The commissioner shall waive any requirements for a nonresident license applicant with a valid license from such applicant's home state, except for the requirements imposed by section 522B.7, if the applicant's home state awards nonresident licenses to residents of this state on the same basis.

2. A nonresident insurance producer's satisfaction of the producer's home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this state's continuing education requirements if the nonresident insurance producer's home state recognizes the satisfaction of its continuing education requirements imposed upon insurance producers from this state on the same basis.

Sec. 30. NEW SECTION. 522B.16 REPORTING OF ACTIONS.

An insurance producer shall report to the commissioner any administrative action taken against the insurance producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent to the order, or other relevant legal documents.

Within thirty days of the initial pretrial hearing date, an insurance producer shall report to the commissioner any criminal prosecution of the insurance producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

Sec. 31. NEW SECTION. 522B.17 PENALTY.

An insurer or insurance producer who, after hearing, is found to have violated this chapter may be assessed a civil penalty pursuant to chapter 507B.

A person found, after hearing, to have acted as an agent of an insurer or otherwise selling, soliciting, or negotiating insurance in this state, or offering to the public advice, counsel, or services with regard to insurance who is not properly licensed is subject to penalty according to the provisions of chapter 507A.

Sec. 32. NEW SECTION. 522B.18 RULES.

The commissioner may adopt reasonable rules according to chapter 17A as are necessary or proper to carry out the purposes of this chapter.

Sec. 33. Section 536.26, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A licensee shall not, directly or indirectly, sell or offer for sale any life, or accident and health insurance in connection with a loan made under this chapter except as and to the extent authorized by this section. Life, accident and health insurance, or any of them, may

<sup>2</sup> See chapter 176, §72 herein

be written by a licensed insurance ~~agent~~ producer upon or in connection with any loan for a term not extending beyond the final maturity date of the loan contract but only upon one obligor on any one loan contract.

Sec. 34. Section 536A.23, subsection 3, Code 2001, is amended to read as follows:

3. Require any borrower to purchase insurance from the lender as a condition for obtaining a loan. However, an industrial loan company may collect from the borrower, at the option of the borrower, and transmit the premiums charged for insuring real or personal property used by the borrower as security for a loan and provided that such insurance is obtained from a licensed insurance ~~agent~~ producer for an insurance company authorized to do business in Iowa; and the premiums charged for insuring the life of one party on the loan in an amount not to exceed the total amount of the note or contract, including cash advance, interest and service charge, provided that no licensee shall require that the contract of life insurance be outstanding for more than the unpaid balance of the indebtedness and provided that such insurance is obtained from a licensed insurance ~~agent~~ producer for an insurance company authorized to do business in Iowa; and an industrial loan company may receive and transmit the premiums charged for accident and health insurance on the borrower, provided such insurance bears a reasonable relationship to the existing hazards or risk of loss, and the aggregate benefits of which shall not exceed the approximate amount of the contractual payments on the loan outstanding at the time of loss, and provided that such insurance is obtained from a licensed ~~agent~~ producer for an insurance company authorized to do business in Iowa. However, all life insurance rates in connection with industrial loans shall be subject to the rules and regulations of the insurance commissioner of the state of Iowa.

Sec. 35. Section 537.3207, Code 2001, is amended to read as follows:

**537.3207 FORM OF INSURANCE PREMIUM LOAN AGREEMENT.**

An agreement pursuant to which an insurance premium loan is made shall contain the names of the insurance ~~agent or broker~~ producer negotiating each policy or contract and of the insurer issuing each policy or contract, the number and inception date of, and premium for, each policy or contract, the date on which the term of the loan begins, and a clear and conspicuous notice that each policy or contract may be canceled if payment is not made in accordance with the agreement. If a policy or contract has not been issued when the agreement is signed, the agreement may provide that the insurance ~~agent or broker~~ producer may insert the appropriate information in the agreement and, if they do so, shall furnish the information promptly in writing to the insured.

Sec. 36.

1. Sections 512B.31, 515.123, 515.124, and 515.126, Code 2001, are repealed.
2. Chapter 522, Code 2001, is repealed.
3. Chapter 523F, Code 2001, is repealed.

Sec. 37. **EFFECTIVE DATE.** This Act takes effect January 1, 2002.

Approved March 28, 2001



## CHAPTER 17

### ENTICING AWAY AND SEXUAL EXPLOITATION OF A MINOR

H.F. 327

**AN ACT** relating to the criminal offenses of enticing a minor away and sexual exploitation of a minor and providing a penalty.

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

Section 1. Section 692A.1, subsection 4, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. mm. Enticing away a minor in violation of section 710.10, subsection 1.

Sec. 2. Section 692A.1, subsection 4, paragraph n, Code 2001, is amended to read as follows:

n. An indictable offense committed in another jurisdiction which would constitute an indictable offense under paragraphs "a" through "~~m~~" "mm".

Sec. 3. Section 710.10, Code 2001, is amended to read as follows:

710.10 ENTICING AWAY A ~~CHILD~~ MINOR.

1. A person commits a class "~~D~~" "C" felony when, without authority and with the intent to commit ~~an illegal act~~ sexual abuse or sexual exploitation upon ~~the child~~ a minor under the age of thirteen, the person entices away ~~a child~~ the minor under the age of thirteen, or entices away a person reasonably believed to be under the age of thirteen.

2. A person commits ~~an aggravated misdemeanor~~ a class "D" felony when, without authority and with the intent to commit an illegal act upon ~~the child~~ a minor under the age of sixteen, the person ~~attempts to entice~~ entices away a ~~child~~ minor under the age of sixteen, or entices away a person reasonably believed to be under the age of sixteen.

3. A person commits an aggravated misdemeanor when, without authority and with the intent to commit an illegal act upon a minor under the age of sixteen, the person attempts to entice away a minor under the age of sixteen, or attempts to entice away a person reasonably believed to be under the age of sixteen.

~~3. 4.~~ A person's intent to commit ~~an illegal act upon the child~~ a violation of this section may be inferred when the ~~individual person~~ is not known to the ~~child~~ person being enticed away and the ~~individual person~~ does not have the permission of the ~~child's~~ parent, guardian, or custodian to contact the child person being enticed away.

5. For purposes of determining jurisdiction under section 803.1, an offense is considered committed in this state if the communication to entice away a minor or a person believed to be a minor who is present in this state originates from another state, or the communication to entice away a minor or a person believed to be a minor is sent from this state.

Sec. 4. Section 728.12, Code 2001, is amended to read as follows:

728.12 SEXUAL EXPLOITATION OF A MINOR.

1. ~~A person commits a class "C" felony when the person employs, uses, persuades, induces, entices, coerces, knowingly permits, It shall be unlawful to employ, use, persuade, induce, entice, coerce, knowingly permit, or otherwise causes~~ cause a minor to engage in a prohibited sexual act or in the simulation of a prohibited sexual act ~~if the person knows, has, A person must know, or have reason to know, or intends~~ intend that the act or simulated act may be photographed, filmed, or otherwise preserved in a negative, slide, book, magazine, computer, computer disk, or other print or visual medium, ~~or be preserved in an electronic, magnetic, or optical storage system, or in any other type of storage system.~~ A person who commits a violation of this subsection commits a class "C" felony. Notwithstanding section 902.9, the court may assess a fine of not more than fifty thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

2. ~~A person commits a class "D" felony when the person knowingly promotes~~ It shall be unlawful to knowingly promote any material visually depicting a live performance of a minor or what appears to be a minor engaging in a prohibited sexual act or in the simulation of a prohibited sexual act. A person who commits a violation of this subsection commits a class "D" felony. Notwithstanding section 902.9, the court may assess a fine of not more than twenty-five thousand dollars for each offense under this subsection in addition to imposing any other authorized sentence.

3. ~~A person who~~ It shall be unlawful to knowingly purchases or possesses purchase or possess a negative, slide, book, magazine, ~~computer, computer disk,~~ or other print or visual medium ~~depicting, or an electronic, magnetic, or optical storage system, or any other type of storage system which depicts~~ a minor or what appears to be a minor engaging in a prohibited sexual act or the simulation of a prohibited sexual act ~~commits a serious misdemeanor.~~ A person who commits a violation of this subsection commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. For purposes of this subsection, an offense is considered a second or subsequent offense if, prior to the person's having been convicted under this subsection, any of the following apply:

a. The person has a prior conviction or deferred judgment under this subsection.

b. The person has a prior conviction, deferred judgment, or the equivalent of a deferred judgment in another jurisdiction for an offense substantially similar to the offense defined in this subsection. The court shall judicially notice the statutes of other states that define offenses substantially similar to the offense defined in this subsection and that therefore can be considered corresponding statutes.

4. ~~However, this~~ This section does not apply to law enforcement officers, court personnel, licensed physicians, licensed psychologists, or attorneys in the performance of their official duties.

Sec. 5. Section 901A.1, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. bb. Enticing a minor away in violation of section 710.10, subsection 1.

Approved March 28, 2001

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## CHAPTER 18

### TOBACCO SETTLEMENT AGREEMENT MODIFICATIONS

S.F. 146

**AN ACT** relating to the tobacco master settlement agreement and providing an effective date.

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

Section 1. Section 453C.1, subsection 4, paragraph c, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The term "cigarette" includes "roll-your-own" tobacco, meaning tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette", 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette".

Sec. 2. Section 453C.1, subsection 9, paragraph a, Code 2001, is amended to read as follows:

a. Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, (except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States).

Sec. 3. Section 453C.2, subsection 2, paragraph b, subparagraph (1), Code 2001, is amended to read as follows:

(1) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the state or any releasing party located or residing in the state. Funds shall be released from escrow, under this subparagraph (1), (a) in the order in which they were placed into escrow and (b) only to the extent and at the time necessary to make payments required under such judgment or settlement.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 30, 2001

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## CHAPTER 19

### ANIMAL BITES AND RABIES — LAW ENFORCEMENT AGENCY DOGS AND HORSES

H.F. 179

**AN ACT** relating to excluding from confinement dogs used by police or correctional officers.

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

Section 1. Section 351.39, Code 2001, is amended to read as follows:  
351.39 CONFINEMENT.

~~When~~ If a local board of health receives information that ~~any person has been bitten by an animal~~ has bitten a person or that a dog or animal is suspected of having rabies, ~~if the board~~ shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after ~~two weeks~~ ten days the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. This section shall not apply to a police service dog or a horse used by a law enforcement agency, that is acting in the performance of its duties which has bitten a person.<sup>1</sup>

Approved March 30, 2001

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<sup>1</sup> See chapter 176, §68 herein

## CHAPTER 20

### STATE BUILDING CODE AND PREEMPLOYMENT RECORDS CHECKS

H.F. 228

**AN ACT** relating to the duties of the department of public safety.

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

Section 1. Section 103A.12, Code 2001, is amended to read as follows:

**103A.12 ADOPTION AND WITHDRAWAL — PROCEDURE.**

The state building code is applicable in each governmental subdivision of the state in which the governing body has enacted an ordinance accepting the applicability of the code and has filed a certified copy of the ordinance in the office of the commissioner ~~and in the office of the secretary of state~~. The state building code becomes effective in the governmental subdivision upon the date fixed by the governmental subdivision ordinance, ~~if the date is~~ which must not be more than six months after the date of adoption of the ordinance.

A governmental subdivision in which the state building code is applicable may by ordinance, at any time after one year has elapsed since the code became applicable, withdraw from the application of the code, ~~if before the ordinance is voted upon, the~~. The local governing body holds shall hold a public hearing, after giving not less than four ~~nor~~ but not more than twenty days' public notice, together with written notice to the commissioner of the time, place, and purpose of the hearing, before the ordinance to withdraw is voted upon. A certified copy of the vote of the local governing body shall be transmitted within ten days after the vote is taken to the commissioner ~~and to the secretary of state for filing~~. The ordinance becomes effective at a time to be specified in ~~the ordinance~~, which must be not less than one hundred eighty days after the date of adoption. Upon the effective date of the ordinance, the state building code ceases to apply to the governmental subdivision except that construction of a building or structure pursuant to a permit previously issued is not affected by the withdrawal.

A governmental subdivision which has withdrawn from the application of the state building code may, at any time thereafter, restore the application of the code in the same manner as specified in this section.

Sec. 2. Section 135C.33, subsections 1 and 2, Code 2001, are amended to read as follows:

1. Beginning July 1, 1997, prior to employment of a person in a facility, the facility shall request that the department of public safety perform a criminal history check and the department of human services perform a dependent adult abuse record ~~checks~~ check of the person in this state. In addition, the facility may request that the department of human services perform a child abuse record check in this state. Beginning July 1, 1997, a facility shall inform all persons prior to employment regarding the performance of the records checks and shall obtain, from the persons, a signed acknowledgment of the receipt of the information. Additionally, a facility shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?" If the person has been convicted of a crime under a law of any state or has a record of founded child or dependent adult abuse, the department of human services shall upon the facility's request perform an evaluation to determine whether the crime or founded child or dependent adult abuse warrants prohibition of employment in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services. If a person owns or operates more than one facility, and an employee of one of such facilities is transferred to another such facility without a lapse in employment, the facility is not required to request additional criminal and dependent adult abuse record checks of that employee.

2. If the department of public safety determines that a person has committed a crime ~~or has a record of founded dependent adult abuse~~ and is to be employed in a facility licensed under this chapter, the department of public safety shall notify the licensee that an evaluation, if requested by the facility, will be conducted by the department of human services to determine whether prohibition of the person's employment is warranted. If a department of human services child or dependent adult ~~record~~ records check determines the person has a record of founded child or dependent adult abuse, the department of human services shall inform the licensee that an evaluation, if requested by the facility, will be conducted to determine whether prohibition of the person's employment is warranted.

Sec. 3. Section 135C.33, subsection 4, Code 2001, is amended to read as follows:

4. A person shall not be employed in a facility licensed under this chapter unless an evaluation has been performed by the department of human services. If the department of human services determines from the evaluation that the person has committed a crime or has a record of founded child or dependent adult abuse which warrants prohibition of employment, the person shall not be employed in a facility licensed under this chapter.

Sec. 4. Section 235B.6, subsection 2, paragraph b, subparagraph (2), Code 2001, is amended to read as follows:

(2) An employee or agent of the department responsible for the investigation of a dependent adult abuse report or for the purpose of performing record checks as required under section 135C.33.

Sec. 5. Section 235B.6, subsection 2, paragraph e, subparagraph (7), Code 2001, is amended by striking the subparagraph.

Approved March 30, 2001

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## CHAPTER 21

### SECURED CONSUMER LOANS FOR MOTOR VEHICLES — BALLOON PAYMENTS

*H.F. 269*

**AN ACT** relating to balloon payments on consumer loans secured by a certificate of title in a motor vehicle.

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

Section 1. Section 537.3308, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. A consumer loan secured by a certificate of title in a motor vehicle.

Approved March 30, 2001

## CHAPTER 22

### IOWA COMMUNICATIONS NETWORK — PROPRIETARY INTERESTS

H.F. 470

**AN ACT** providing for the protection of proprietary rights and collection of fees for software, network designs, and technology applications of the Iowa communications network.

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

Section 1. NEW SECTION. 8D.11A PROPRIETARY INTERESTS.

The commission may charge a negotiated fee, to recover a share of the costs related to the research and development, initial production, and derivative products of its proprietary software and hardware, telecommunications architecture design, and proprietary technology applications developed to support authorized users, to private vendors and to other political entities and subdivisions, including but not limited to states, territories, protectorates, and foreign countries. The commission may enter into nondisclosure agreements to protect the state of Iowa's proprietary interests. The provisions of chapter 23A relating to noncompetition by state agencies and political subdivisions with private enterprise shall not apply to commission activities authorized under this section.

Sec. 2. Section 23A.2, subsection 10, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. The performance of an activity authorized pursuant to section 8D.11A.

Approved March 30, 2001

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## CHAPTER 23

### MEAT AND POULTRY PROCESSORS — UNCLAIMED DEER VENISON

H.F. 597

**AN ACT** relating to the disposition of unclaimed deer venison processed by a meat and poultry processing establishment.

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

Section 1. NEW SECTION. 556H.1 UNCLAIMED DEER VENISON HELD BY A MEAT AND POULTRY PROCESSING ESTABLISHMENT.

All deer venison deposited with an establishment licensed pursuant to chapter 189A, which remains unclaimed for a period of two months after the establishment has attempted to contact the deer venison owner at least once by ordinary mail at the owner's last known mailing address, shall be presumed to be abandoned. The establishment may dispose of the abandoned deer venison by donating the deer venison to a local nonprofit, charitable organization. For purposes of this section, the term "deer" means the Cervidae or game deer excluding any farm deer as defined in section 481A.1, subsection 20, paragraph "h", and all donated deer venison shall include game deer venison only and shall not be processed as a multispecies meat food product pursuant to chapter 189A.

Sec. 2. Section 672.1, subsection 2, Code 2001, is amended to read as follows:

2. A gleaner, or a restaurant, food establishment, food service establishment, school, manufacturer of foodstuffs, meat and poultry establishment licensed pursuant to chapter 189A, or other person who, in good faith, donates food to a charitable or nonprofit organization for ultimate free distribution to needy individuals is not subject to criminal or civil liability arising from the condition of the food if the donor reasonably inspects the food at the time of the donation and finds the food fit for human consumption. The immunity provided by this subsection does not extend to a donor or gleaner if damages result from the negligence, recklessness, or intentional misconduct of the donor, or if the donor or gleaner has, or should have had, actual or constructive knowledge that the food is tainted, contaminated, or harmful to the health or well-being of the ultimate recipient.

Approved March 30, 2001

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## CHAPTER 24

### NONSUBSTANTIVE CODE CORRECTIONS

*H.F. 194*

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

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

Section 1. Section 12.32, subsections 1 and 3, Code 2001, are amended to read as follows:

1. "Eligible borrower" means any person who is in the business or is entering the business of producing, processing, or marketing horticultural crops or nontraditional crops in this state or any person in this state who is qualified to participate in one of the programs in this ~~division~~ section and sections 12.33 through 12.43B. "Eligible borrower" does not include a person who has been determined to be delinquent in making child support payments or any other payments due the state.

3. "Linked investment" means a certificate of deposit placed pursuant to this ~~division~~ section and sections 12.33 through 12.43B by the treasurer of state with an eligible lending institution, at an interest rate not more than three percent below current market rate on the condition that the institution agrees to lend the value of the deposit, according to the investment agreement provided in section 12.35, to an eligible borrower at a rate not to exceed four percent above the rate paid on the certificate of deposit. The treasurer of state shall determine and make available the current market rate which shall be used each month.

Sec. 2. Section 12.34, subsections 1 and 2, Code 2001, are amended to read as follows:

1. The treasurer of state may invest up to the lesser of one hundred eight million dollars or ten percent of the balance of the state pooled money fund in certificates of deposit in eligible lending institutions as provided in sections 12.32 and 12.33, this ~~division~~ section, and sections 12.35 through 12.43B. The moneys invested pursuant to this section shall be used as follows:

a. The treasurer of state may invest up to sixty-eight million dollars to support programs provided in sections 12.32 and 12.33, this ~~division~~ section, and sections 12.35 through 12.43B other than the traditional livestock producers linked investment loan program as

provided in section 12.43A and the value-added agricultural linked investment loan program as provided in section 12.43B.

b. The treasurer of state shall invest the remaining amount as follows:

(1) At least twenty million dollars shall be invested in order to support the traditional livestock producers linked investment loan program as provided in section 12.43A.

(2) At least twenty million dollars shall be invested in order to support the value-added agricultural linked investment loan program as provided in section 12.43B.

2. a. The treasurer of state shall adopt rules pursuant to chapter 17A to administer sections 12.32 and 12.33, this ~~division~~ section, and sections 12.35 through 12.43B.

b. The treasurer of state in cooperation with the board of directors of the agricultural development authority as established in section 175.3 shall adopt rules for the administration of the traditional livestock producers linked investment loan program as provided in section 12.43A. The treasurer of state in cooperation with the agricultural products advisory council established in section 15.203 shall adopt rules for the administration of the value-added agricultural linked investment loan program as provided in section 15.204.

Sec. 3. Section 12.35, subsection 1, Code 2001, is amended to read as follows:

1. An eligible lending institution that desires to receive a linked investment shall enter into an agreement with the treasurer of state, which shall include requirements necessary for the eligible lending institution to comply with sections 12.32 through 12.34, this ~~division~~ section, and sections 12.36 through 12.43B.

Sec. 4. Section 12.36, subsection 2, Code 2001, is amended to read as follows:

2. Upon acceptance of the linked investment loan package or any portion of the package, the treasurer of state shall place certificates of deposit with the eligible lending institution at a rate not more than three percent below the current market rate. The treasurer of state shall not place a certificate of deposit with an eligible lending institution pursuant to sections 12.32 through 12.35, this ~~division~~ section, and sections 12.37 through 12.43B, unless the certificate of deposit earns a rate of interest of at least two percent. Interest earned on the certificate of deposit and principal not renewed shall be remitted to the treasurer of state at the time the certificate of deposit matures. Certificates of deposit placed pursuant to sections 12.32 through 12.35, this ~~division~~ section, and sections 12.37 through 12.43B are not subject to a penalty for early withdrawal.

Sec. 5. Section 12.40, subsection 2, Code 2001, is amended to read as follows:

2. The treasurer of state shall adopt rules consistent with sections 12.32 through 12.39, this ~~division~~ section, and sections 12.41 through 12.43B to implement a rural small business transfer linked investment loan program to maintain and expand existing employment opportunities and the provision of retail goods on a local level in small rural communities by assisting in the transfer of ownership of retail-oriented businesses where, in the absence of sufficient financial assistance, the businesses may close.

Sec. 6. Section 12.43A, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

In order to qualify for a loan in accordance with an investment agreement under sections 12.32 through 12.43, this ~~division~~ section, and section 12.43B, all of the following requirements must be satisfied:

Sec. 7. Section 12.72, subsection 1, Code 2001, is amended to read as follows:

1. A vision Iowa fund is created and established as a separate and distinct fund in the state treasury. The moneys in the fund are appropriated to the vision Iowa board for purposes of the vision Iowa program established in section 15F.302. Moneys in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes of the vision Iowa fund. The treasurer of state shall act as custodian of the fund and disburse moneys contained in the fund as directed by the vision



Iowa board, including automatic disbursements of funds received pursuant to the terms of bond indentures and documents and security provisions to trustees. The fund shall be administered by the vision Iowa board which shall make expenditures from the fund consistent with the purposes of the vision Iowa program without further appropriation. An applicant under the vision Iowa program shall not receive more than seventy-five million dollars in financial assistance from the fund.

Sec. 8. Section 12.72, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Revenue for the vision Iowa fund shall include, but is not limited to, the following, which shall be deposited with the treasurer of state or ~~its~~ the treasurer's designee as provided by any bond or security documents and credited to the fund:

Sec. 9. Section 12.74, subsection 2, Code 2001, is amended to read as follows:

2. The state pledges to and agrees with the holders of bonds or notes issued under section 12.71 that the state will not limit or alter the rights and powers vested in the vision Iowa board or the treasurer of state to fulfill the terms of a contract made with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds and notes, together with the interest on them including interest on unpaid installments of interest, are fully met and discharged.

Sec. 10. Section 14B.101, subsection 3, Code 2001, is amended to read as follows:

3. "Governmental entity" means any unit of government in the executive, legislative, or judicial branch of government; an agency or political subdivision; any unit of another state government, including its political subdivisions; ~~and~~ or any unit of the United States government.

Sec. 11. Section 14B.109, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. Standards established by the information technology council, unless waived pursuant to section 14B.105, shall apply to all information technology procurements for participating agencies.

Sec. 12. Section 14B.109, subsection 3, Code 2001, is amended to read as follows:

3. The information technology department, by rule, may implement a prequalification procedure for contractors with which the department has entered or intends to enter into agreements regarding the procurement of information technology.

Sec. 13. Section 14B.109, subsection 5, Code 2001, is amended to read as follows:

5. The department shall adopt rules pursuant to chapter 17A to implement the procurement methods and procedures provided for in subsections 2 through 4.

Sec. 14. Section 14B.201, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. The advisory council shall also advise the information technology council and the director with respect to the operation of lowAccess and encourage and ~~implementing~~ implement access to government and its public records by the citizens of this state.

Sec. 15. Section 16.92, subsection 7, paragraph b, Code 2001, is amended to read as follows:

b. For purposes of this subsection, an effective release has not been filed of record if ~~there~~ it appears that a mortgagee in the record chain of title to the mortgage has not, either on the mortgagee's own behalf or by the mortgagee's duly appointed servicer or attorney in fact as established of record by a filed servicing agreement or power of attorney, filed of record either an assignment of the mortgage to another mortgagee in the record chain of title to the mortgage or a release of the mortgagee's interest in the mortgage. For the purposes of this

subsection and subsection 2, paragraph “c”, “mortgage servicer” includes a mortgagee for which an effective release has not been filed of record as provided in this paragraph.

Sec. 16. Section 18.22, subsection 4, paragraph c, subparagraph (1), Code 2001, is amended to read as follows:

(1) “Bio-based hydraulic fluids, greases, and other industrial lubricants” means the same as defined by the United States department of agriculture, if the department has adopted such a definition. If the United States department of agriculture has not adopted a definition, “bio-based hydraulic fluids, greases, and other industrial lubricants” means hydraulic fluids, greases, and other lubricants containing a minimum of fifty-one percent soybean oil.

Sec. 17. Section 22.7, subsection 20, Code 2001, is amended to read as follows:

20. Information concerning the nature and location of any archaeological resource or site if, in the opinion of the state archaeologist, disclosure of the information will result in unreasonable risk of damage to or loss of the resource or site where the resource is located. This subsection shall not be construed to interfere with the responsibilities of the federal government or the state ~~historical~~ historic preservation officer pertaining to access, disclosure, and use of archaeological site records.

Sec. 18. Section 50.16, Code 2001, is amended by striking the words “Election board member’s name” and the words “Tally keeper’s name” and inserting the following: “Name”.

Sec. 19. Section 68B.22, subsection 4, paragraph p, Code 2001, is amended to read as follows:

p. Gifts other than food, beverages, travel, and lodging received by a public official or public employee which are received from a person who is a citizen of a country other than the United States and ~~is~~ are given during a ceremonial presentation or as a result of a custom of the other country and is of personal value only to the donee.

Sec. 20. Section 68B.38, subsection 1, Code 2001, is amended to read as follows:

1. On or before January 31 and July 31 of each year, a lobbyist’s client shall file with the general assembly or board a report that contains information on all salaries, fees, and retainers paid by the lobbyist’s client to the lobbyist for lobbying purposes during the preceding six calendar months. Reports by a lobbyist’s clients shall be filed with the same entity with which the lobbyist filed the lobbyist’s registration.

Sec. 21. Section 84A.1A, subsection 4, Code 2001, is amended to read as follows:

4. Members of the board, the director, and other employees of the department of workforce development shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses shall be paid from appropriations for those purposes and the department is subject to the budget requirements of chapter 8. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.

Sec. 22. Section 84A.1B, subsections 5 through 8, Code 2001, are amended to read as follows:

5. Approve the budget of the department of workforce development related to workforce development as prepared by the director.

6. Establish guidelines, procedures, and policies for the awarding of grants for workforce development services by the department of workforce development.

7. Review grants or contracts awarded by the department of workforce development, with respect to the department’s adherence to the guidelines and procedures and the impact on the five-year strategic plan for workforce development.

8. Make recommendations concerning the use of federal funds received by the department of workforce development with respect to the five-year and twenty-year workforce development plans.

Sec. 23. Section 84A.4, subsections 2 and 3, Code 2001, are amended to read as follows:

2. Each regional advisory board shall identify workforce development needs in its region, assist the workforce development board and the department of workforce development in the awarding of grants or contracts administered by the department of workforce development in that region and in monitoring the performance of the grants and contracts awarded, make annual reports as required by section 84A.1B, and make recommendations to the workforce development board and department of workforce development concerning workforce development.

3. Section 84A.1A, subsections 2, 3, and 5, apply to the members of a regional advisory board except that the board shall meet if a majority of the members of the board, and not five, file a written request with the chairperson for a meeting. Members of a regional advisory board shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses shall be paid from appropriations for those purposes and the department of workforce development is subject to the budget requirements of chapter 8.

Sec. 24. Section 88.3, subsection 8, Code 2001, is amended to read as follows:

8. "Occupational safety and health standard" means a standard which requires conditions or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safety safe or healthful employment and places of employment.

Sec. 25. Section 88.5, subsection 7, Code 2001, is amended to read as follows:

7. SPECIAL VARIANCE. Where there are conflicts with standards, rules or regulations promulgated by any federal agency other than the United States department of labor, special variances from standards, rules or regulations promulgated under this chapter may be granted to avoid such regulatory conflicts. Such variances shall take into consideration the safety of the employees involved. Notwithstanding any other provision of this chapter, and with respect to this paragraph, any employer seeking relief under this provision must file an application ~~therefor~~ with the commissioner and the commissioner shall forthwith hold a hearing at which employees or other interested persons, including representatives of the federal regulatory agencies involved, may appear and upon the showing that such a conflict indeed exists the commissioner may issue a special variance until the conflict is resolved.

Sec. 26. Section 89.2, subsection 5, paragraph a, Code 2001, is amended as follows:

a. A building or structure primarily used as a theater, motion picture theater, museum, arena, exhibition hall, school, college, dormitory, bowling alley, physical fitness center, family entertainment center, lodge hall, union hall, pool hall, casino, place of worship, funeral home, institution of health and custodial care, hospital, or child care or adult day care facility.

Sec. 27. Section 92.1, subsection 1, Code 2001, is amended to read as follows:

1. No person under ten years of age shall be employed or permitted to work with or without compensation at any time within this state in street occupations of peddling, ~~bootblackening~~ shoe polishing, the distribution or sale of newspapers, magazines, periodicals or circulars, nor in any other occupations in any street or public place. The labor commissioner shall, when ordered by a judge of the juvenile court, issue a work permit as provided in this chapter to a person under ten years of age.

Sec. 28. Section 124.101, subsection 17, Code 2001, is amended to read as follows:

17. "Marijuana" means all parts of the plants of the genus ~~cannabis~~ Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinols. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (ex-

cept the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

Sec. 29. Section 139A.2, subsection 14, Code 2001, is amended to read as follows:

14. "Isolation" means the separation of persons or animals presumably or actually ~~affected~~ infected with a communicable disease or who are disease carriers for the usual period of communicability of that disease in such places, marked by placards if necessary, and under such conditions as will prevent the direct or indirect conveyance of the infectious agent or contagion to susceptible persons.

Sec. 30. Section 139A.22, subsection 3, Code 2001, is amended to read as follows:

3. The department shall establish an expert review panel to determine on a case-by-case basis under what circumstances, if any, a health care provider determined to be infected with HIV or HBV practicing outside the hospital setting or referred to the panel by a hospital or health care facility ~~setting~~ may perform exposure-prone procedures. If a health care provider determined to be infected with HIV or HBV does not comply with the determination of the expert review panel, the panel shall report the noncompliance to the examining board with jurisdiction over the health care provider. A determination of an expert review panel pursuant to this section is a final agency action appealable pursuant to section 17A.19.

Sec. 31. Section 147.80, subsection 13, Code 2001, is amended to read as follows:

13. License to practice nursing issued upon the basis of an examination given by the board of ~~nurse examiners~~ nursing, license to practice nursing based on an endorsement from another state, territory or foreign country, renewal of a license to practice nursing.

Sec. 32. Section 161A.15, Code 2001, is amended to read as follows:

161A.15 NOTICE AND HEARING.

Within thirty days after a petition has been filed with the soil and water conservation district commissioners, they shall fix a date, hour, and place for a hearing and direct the secretary to cause notice to be given to the owners of each tract of land, or lot, within the proposed subdistrict as shown by the transfer books of the auditor's office, and to each lienholder, or encumbrancer, of any such lands as shown by the county records, and to all other persons whom it may concern, and without naming individuals all actual occupants of land in the proposed subdistrict, of the pendency and purpose of the petition and that all objections to establishment of the subdistrict for any reason must be made in writing and filed with the secretary of the soil and water conservation district at, or before, the time set for hearing. The soil and water conservation district commissioners shall consider and determine whether the operation of the subdistrict within the defined boundaries as proposed is desirable, practicable, feasible, and of necessity in the interest of health, safety, and public welfare. All interested parties may attend the hearing and be heard. The soil and water conservation district commissioners may for good cause adjourn the hearing to a day certain which shall be announced at the time of adjournment and made a matter of record. If the soil and water conservation district commissioners determine that the petition meets the requirements set forth in this section and in section 161A.5, they shall declare that the subdistrict is duly organized and shall record such action in their official minutes together with an appropriate official name or designation for the subdistrict.

Sec. 33. Section 161A.18, Code 2001, is amended to read as follows:

161A.18 AUTHENTICATION.

Following the entry in the official minutes of the soil and water conservation district commissioners of the creation of the subdistrict, the commissioners shall certify this fact on a separate form, authentic copies of which shall be recorded with the county recorder of each county in which any portion of the subdistrict lies, and with the division of soil conservation.

Sec. 34. Section 166D.2, subsection 2, Code 2001, is amended to read as follows:

2. "Approved premises" means a dry lot facility located in an area with confirmed cases of pseudorabies infection, which is certified by the department to receive, ~~and~~ feed, and move or relocate infected swine as provided in section 166D.10B.

Sec. 35. Section 166D.12, subsection 2, paragraph c, Code 2001, is amended to read as follows:

c. A person shall not move swine subject to restricted movement to or from a fixed concentration point ~~subject to restricted movement~~ or receive swine subject to restricted movement at a fixed concentration point, unless the swine is moved and received in compliance with section 166D.10A.

Sec. 36. Section 200.7, Code 2001, is amended to read as follows:

#### 200.7 FERTILIZER-PESTICIDE MIXTURE.

Only those persons licensed under section 200.4 shall be permitted to add pesticides to commercial fertilizers. These persons shall at all times produce a uniform mixture of fertilizer and pesticide and shall register and label their product in compliance with both ~~the Iowa Pesticide Act~~ chapter 206 and this chapter.

Sec. 37. Section 205.5, Code 2001, is amended to read as follows:

#### 205.5 REGULATIONS AS TO SALES OF CERTAIN POISONS.

It shall be unlawful for any person except a licensed pharmacist to sell at retail any of the poisons enumerated in this section: Ammoniated mercury, mercury bichloride, red mercuric iodide, and other poisonous salts and compounds of mercury; salts and compounds of arsenic; salts of antimony; salts of barium except the sulphate; salts of thallium; hydrocyanic acid and its salts; chromic, glacial acetic, and picric acids; chloral hydrate, croton oil, creosol, chloroform, dinitrophenol, ether, oil of bitter almonds, phenol, phosphorus and sodium fluoride; aconitine, arecoline, ~~atropine~~ atropine, brucine, homatropine, hyoscyamine, nicotine, strychnine, and the salts of these alkaloids; aconite, belladonna, cantharides, digitalis, nux vomica, veratrum, and the preparations of these poisonous drugs.

Sec. 38. Section 216.15A, subsection 13, Code 2001, is amended to read as follows:

13. If a provision of this section ~~216.15A~~ applies under the terms of ~~section 216.15A~~, subsection 12, and the provision of this section ~~216.15A~~ conflicts with a provision of section 216.15, then the provision contained within this section ~~216.15A~~ shall prevail. Similarly, if a provision of section 216.16A or 216.17A conflicts with a provision of section 216.16 or 216.17, then the provision contained in section 216.16A or 216.17A shall prevail.

Sec. 39. Section 232.52, subsection 7, Code 2001, is amended to read as follows:

7. If the court orders the transfer of the custody of the child to the department of human services or to another agency for placement in ~~foster~~ group ~~foster~~ care, the department or agency shall make every reasonable effort to place the child within the state, in the least restrictive, most family-like, and most appropriate setting available and in close proximity to the parents' home, consistent with the child's best interests and special needs, and shall consider the placement's proximity to the school in which the child is enrolled at the time of placement.

Sec. 40. Section 232.102, subsection 7, Code 2001, is amended to read as follows:

7. In any order transferring custody to the department or an agency, or in orders pursuant to a custody order, the court shall specify the nature and category of disposition which will serve the best interests of the child, and shall prescribe the means by which the placement shall be monitored by the court. If the court orders the transfer of the custody of the child to the department of human services or other agency for placement, the department or agency shall submit a case permanency plan to the court and shall make every reasonable effort to return the child to the child's home as quickly as possible consistent with the best interest of

the child. When the child is not returned to the child's home and if the child has been previously placed in a licensed foster care facility, the department or agency shall consider placing the child in the same licensed foster care facility. If the court orders the transfer of custody to a parent who does not have physical care of the child, other relative, or other suitable person, the court may direct the department or other agency to provide services to the child's parent, guardian, or custodian in order to enable them to resume custody of the child. If the court orders the transfer of custody to the department of human services or to another agency for placement in ~~foster~~ group foster care, the department or agency shall make every reasonable effort to place the child within Iowa, in the least restrictive, most family-like, and most appropriate setting available, and in close proximity to the parents' home, consistent with the child's best interests and special needs, and shall consider the placement's proximity to the school in which the child is enrolled at the time of placement.

Sec. 41. Section 252F.7, Code 2001, is amended to read as follows:

252F.7 REPORT TO VITAL STATISTICS RECORDS.

Upon the filing of an order with the district court pursuant to this chapter, the clerk of the district court shall report the information from the order to the bureau of vital ~~statistics records~~ records in the manner provided in section 600B.36.

Sec. 42. Section 261.9, subsection 1, paragraph c, Code 2001, is amended to read as follows:

c. Is a school of nursing accredited by the national league for nursing and approved by the board of ~~nurse examiners~~ nursing, including such a school operated, controlled, and administered by a county public hospital.

Sec. 43. Section 275.8, subsection 1, Code 2001, is amended to read as follows:

1. Preparation of a written joint plan in which contiguous territory in two or more area education agencies is considered as a part of a potential school district in the area education agency on behalf of which such plan is filed with the ~~state department of public instruction~~ education by the area education agency board.

Sec. 44. Section 275.8, subsection 3, unnumbered paragraphs 1 and 2, Code 2001, are amended to read as follows:

Filing said plan with the ~~state department of public instruction~~ education.

For purposes of subsection 1 hereof, joint planning shall be evidenced by filing the following items with the ~~state department of public instruction~~ education:

Sec. 45. Section 303.21, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The petition shall contain a description of the property suggested for inclusion in the district; and the reasons justifying the creation of the district.

Sec. 46. Section 321.502, Code 2001, is amended to read as follows:

321.502 NOTIFICATION TO NONRESIDENT — FORM.

The notification, provided for in section 321.501, shall be in substantially the following form, to wit:

To ..... (Here insert the name of each defendant and the defendant's residence or last known place of abode as definitely as known.)

You will take notice that an original notice of suit against you, a copy of which is hereto attached, was duly served upon you at Des Moines, Iowa, by filing a copy of said notice on the ..... day of ....., ~~19~~....., with the director of transportation of the state of Iowa.

Dated at ....., Iowa, this ..... day of ....., ~~19~~.....

.....  
Plaintiff.

By .....  
Attorney for plaintiff.

Sec. 47. Section 357A.11, subsection 9, Code 2001, is amended to read as follows:

9. Finance all or part of the cost of the construction or purchase of a project necessary to carry out the purposes for which the district is incorporated or to refinance all or part of the original cost of that project, including, but not limited to, obligations originated by the district as a nonprofit corporation under chapter 504A and assumed by the district reorganized under this chapter. Financing or refinancing carried out under this subsection shall be in accordance with the terms and procedures set forth in the applicable provisions of sections 384.24A, 384.83 through 384.88, 384.92, and 384.93. References in these sections to a city shall be applicable to a rural water district operating under this chapter, and references in ~~that~~ that division V of chapter 384 to a city council shall be applicable to the board of directors of a rural water district. This subsection shall not create a lien against the property of a person who is not a rural water subscriber.

Sec. 48. Section 357E.9, unnumbered paragraph 2, Code 2001, is amended to read as follows:

If the state owns at least four hundred acres of land contiguous to a lake within the district, the natural ~~resources~~ resource commission shall appoint two members of the board of trustees in addition to the three members provided in this section. The additional two members must be citizens of the state, not less than eighteen years of age, and property owners within the district. The two additional members have voting and other authority equal to the other members of the board and hold office at the pleasure of the natural ~~resources~~ resource commission.

Sec. 49. Section 392.5, unnumbered paragraph 2, Code 2001, is amended to read as follows:

In order for the board to function in the same manner, the council shall retain all applicable ordinances, and shall adopt as ordinances all applicable state statutes repealed by ~~64GA 1972 Iowa Acts~~, chapter 1088.

Sec. 50. Section 422E.2, subsection 4, paragraph b, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of the tax, the county auditor shall give written notice of the result of the election by sending a copy of the abstract of the votes from the favorable election to the director of revenue and finance ~~of the result of the election~~. Election costs shall be apportioned among school districts within the county on a pro rata basis in proportion to the number of registered voters in each school district and the total number of registered voters in all of the school districts within the county.

Sec. 51. Section 425.21, Code 2001, is amended to read as follows:

**425.21 SATISFACTION OF OUTSTANDING TAX LIABILITIES.**

The amount of any claim for credit or reimbursement payable under this division may be applied by the department of revenue and finance against any tax liability, delinquent accounts, charges, loans, fees, or other indebtedness due the state or state agency that ~~have~~ has a formal agreement with the department for central debt collection, outstanding on the books of the department against the claimant, or against a spouse who was a member of the claimant's household in the base year.

Sec. 52. Section 446.38, Code 2001, is amended to read as follows:

**446.38 SUSPENDED TAXES OF OLD-AGE ASSISTANCE RECIPIENTS.**

In cases where taxes were suspended one year or more upon the parcel of a deceased old-age assistance recipient and no estate was opened within ninety days after the death of the recipient and the surviving spouse of the recipient is not occupying the parcel, the county may apply to the probate court to have the parcel conveyed to it for satisfaction of the suspended taxes. The probate court shall prescribe the manner and notices to be given. The

probate court shall order the parcel conveyed to the county for satisfaction of the suspended taxes if an estate is not opened within a time specified by the court. The probate court shall make and enter all appropriate orders to effect this conveyance to the county if an estate is not opened within the time specified. The parcel, at the election of the county treasurer, may be offered at tax sale in accordance with this chapter 446 in lieu of the county making application to the probate court.

Sec. 53. Section 455A.19, subsection 1, paragraph a, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Twenty-eight percent shall be allocated to the open spaces account. At least ten percent of the allocations to the account shall be made available to match private funds for open space projects on the cost-share basis of not less than twenty-five percent private funds pursuant to the rules adopted by the natural resources resource commission. Five percent of the funds allocated to the open spaces account shall be used to fund the protected waters program. This account shall be used by the department to implement the statewide open space acquisition, protection, and development programs.

Sec. 54. Section 455E.11, subsection 2, paragraph a, subparagraph (2), subparagraph subdivision (f), Code 2001, is amended to read as follows:

(f) Eight and one-half percent to the department to provide additional toxic cleanup days or other efforts of the department to support permanent household hazardous material collection systems and special events for household hazardous material collection, and for the natural resource geographic information system required under section 455E.8, subsection 6. Departmental rules adopted for implementation of toxic cleanup days shall provide sufficient flexibility to respond to the household hazardous material collection needs of both small and large communities. Repayment of moneys from the Iowa business loan program for waste reduction and recycling pursuant to section 455B.310, subsection 2, paragraph "b", Code 1993, and discontinued pursuant to 1993 Iowa Acts, chapter 176, section 45, shall be placed into this account to support household hazardous materials programs of the department.

Sec. 55. Section 515B.2, subsection 5, Code 2001, is amended to read as follows:

5. "Insurer" means an insurer licensed to transact insurance business in this state under either chapter 515 or chapter 520, either at the time the policy was issued or when the insured event occurred. It does not include county or state mutual insurance associations licensed under chapter 518 or chapter 518A, or fraternal ~~beneficiary~~ benefit societies, orders, or associations licensed under chapter 512B, or corporations operating nonprofit service plans under chapter 514, or life insurance companies or life, accident, or health associations licensed under chapter 508, or those professions under chapter 519.

Sec. 56. Section 518.28, Code 2001, is amended to read as follows:

#### 518.28 FAILURE TO FILE COPY.

Upon the failure of a county mutual insurance association to file a copy of its forms of policies or contracts pursuant to section 518.27, the commissioner of insurance may suspend its authority to transact business within the state until such forms of policies or contracts have been filed and approved.

Sec. 57. Section 518A.35, Code 2001, is amended to read as follows:

#### 518A.35 ANNUAL TAX.

A state mutual insurance association doing business under this chapter shall on or before the first day of March, each year, pay to the director of the department of revenue and finance, or a depository designated by the director, a sum equivalent to two percent of the gross receipts from premiums and fees for business done within the state, including all insurance upon property situated in the state without including or deducting any amounts received or paid for reinsurance. However, a company reinsuring windstorm or hail risks



written by county mutual insurance associations is required to pay a two percent tax on the gross amount of reinsurance premiums received upon such risks, but after deducting the amount returned upon canceled policies and rejected applications covering property situated within the state, and dividends returned to policyholders on property situated within the state.

Sec. 58. Section 537.3102, Code 2001, is amended to read as follows:  
537.3102 SCOPE.

Part 2 applies to disclosure with respect to consumer credit transactions, other than consumer rental purchase agreements, and the provision in section 537.3201 applies to a sale of an interest in land or a loan secured by an interest in land, without regard to the rate of finance charge, if the sale or loan is otherwise a consumer credit sale or consumer loan. Parts 3 and 4 apply, respectively, to disclosure, limitations on agreements and practices, and limitations on consumer's liability with respect to certain consumer credit transactions. Part 5 applies to home solicitation sales. Part 6 applies to consumer rental purchase agreements.

Sec. 59. Section 714.19, subsection 2, Code 2001, is amended to read as follows:

2. Schools of nursing accredited by the board of ~~nurse examiners~~ nursing or an equivalent public board of another state or foreign country.

Sec. 60. Section 805.1, subsection 4, Code 2001, is amended to read as follows:

4. The issuance of a citation in lieu of arrest or in lieu of continued custody does not affect the officer's authority to conduct an otherwise lawful search. The issuance of a citation in lieu of arrest shall be deemed an arrest for the purpose of the speedy indictment requirements of R.Cr.P. ~~section 27, subsection 2, paragraph "a"(2)(a)~~, Ia. Ct. Rules, 3rd ed.

Sec. 61. Section 805.8, subsection 2, paragraph ah, Code 2001, is amended to read as follows:

ah. If, in connection with a motor vehicle accident, a person is charged and found guilty of a violation of section 321.20B, subsection 1, the scheduled fine is five hundred dollars, otherwise the scheduled fine for a violation of section 321.20B, subsection 1, is two hundred fifty dollars. Notwithstanding section 805.12, fines collected pursuant to this paragraph shall be submitted to the state court administrator and distributed fifty percent to the victim compensation fund established in section ~~912.14~~ 915.94, twenty-five percent to the county in which such fine is imposed, and twenty-five percent to the general fund of the state.

Sec. 62. Sections 496B.11, 496B.12, 496C.3, 496C.14, 496C.20, 496C.22, and 544A.21, Code 2001, are amended by adding after the words "Iowa business corporation Act", the following: ", chapter 490,".

Sec. 63. Section 496B.3, Code 2001, is amended by adding after the words "Iowa business corporation Act," the following: "chapter 490,".

Sec. 64. Sections 496B.6, 496B.8, 496B.17, 496C.4, 496C.9, 496C.19, 496C.21, and 504A.6, Code 2001, are amended by adding after the words "Iowa business corporation Act", the following: ", chapter 490".

Sec. 65. 2000 Iowa Acts, chapter 1029, section 1, is amended by striking the amending phrase to the section and inserting in lieu thereof the following: "Section 249A.4, subsection 8, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:".

Sec. 66. 2000 Iowa Acts, chapter 1098, section 1, is amended by striking the amending phrase to the section and inserting in lieu thereof the following: "Section 256.7, Code Supplement 1999, is amended by adding the following new subsection:".

Sec. 67. 2000 Iowa Acts, chapter 1145, sections 10, 12, 18, and 23, are amended by striking the word and figure "Code 1999" in the amending phrase to the section and inserting in lieu thereof the following: "Code Supplement 1999".

Sec. 68. 2000 Iowa Acts, chapter 1145, section 11, is amended by striking the section and inserting in lieu thereof the following:

SEC. 11. Section 600.8, subsections 4, 7, 8, 9, and 12, Code Supplement 1999, are amended to read as follows:

4. A postplacement investigation and the report of the investigation shall be completed and filed with the juvenile court or court prior to the holding of the adoption hearing prescribed in section 600.12. Upon the filing of an adoption petition pursuant to section 600.5, the juvenile court or court shall immediately appoint the department, an agency, or an investigator to conduct and complete the postplacement report. Any person, ~~including a juvenile court,~~ who has gained relevant background information concerning a minor person subject to an adoption petition shall, upon request, fully cooperate with the conducting of the postplacement investigation by disclosing any relevant information requested, whether contained in sealed records or not.

7. Any investigation or report required under this section shall not apply when the person to be adopted is an adult or when the prospective adoption petitioner or adoption petitioner is a stepparent of the person to be adopted. However, in the case of a stepparent adoption, the juvenile court or court, upon the request of an interested person or on its own motion stating the reasons therefor of record, may order an investigation or report pursuant to this section.

8. Any person designated to make an investigation and report under this section may request an agency or state agency, within or outside this state, to conduct a portion of the investigation or the report, as may be appropriate, and to file a supplemental report of such investigation or report with the juvenile court or court. In the case of the adoption of a minor person by a person domiciled or residing in any other jurisdiction of the United States, any investigation or report required under this section which has been conducted pursuant to the standards of that other jurisdiction shall be recognized in this state.

9. The department may investigate, on its own initiative or on order of the juvenile court or court, any placement made or adoption petition filed under this chapter or chapter 600A and may report its resulting recommendation to the juvenile court or court.

12. Any investigation and report required under subsection 1 of this section may be waived by the juvenile court or court if the adoption petitioner is related within the fourth degree of consanguinity to the person to be adopted.

Sec. 69. 2000 Iowa Acts, chapter 1145, section 17, is amended by striking the section and inserting in lieu thereof the following:

SEC. 17. Section 600.13, subsections 1, 2, 3, and 5, Code Supplement 1999, are amended to read as follows:

1. At the conclusion of the adoption hearing, the juvenile court or court shall:

a. Issue a final adoption decree;

b. Issue an interlocutory adoption decree; or,

c. Dismiss the adoption petition if the requirements of this Act have not been met or if dismissal of the adoption petition is in the best interest of the person whose adoption has been petitioned. Upon dismissal, the juvenile court or court shall determine who is to be guardian or custodian of a minor child, including the adoption petitioner if it is in the best interest of the minor person whose adoption has been petitioned.

2. An interlocutory adoption decree automatically becomes a final adoption decree at a date specified by the juvenile court or court in the interlocutory adoption decree, which date shall not be less than one hundred eighty days nor more than three hundred sixty days from the date the interlocutory decree is issued. However, an interlocutory adoption decree may be vacated prior to the date specified for it to become final. Also, the juvenile court or court may provide in the interlocutory adoption decree for further observation, investigation, and

report of the conditions of and the relationships between the adoption petitioner and the person petitioned to be adopted.

3. If an interlocutory adoption decree is vacated under subsection 2, it shall be void from the date of issuance and the rights, duties, and liabilities of all persons affected by it shall, unless they have become vested, be governed accordingly. Upon vacation of an interlocutory adoption decree, the juvenile court or court shall proceed under the provisions of subsection 1, paragraph "c".

5. An interlocutory or a final adoption decree shall be entered with the clerk of court. Such decree shall set forth any facts of the adoption petition which have been proven to the satisfaction of the juvenile court or court and any other facts considered to be relevant by the juvenile court or court and shall grant the adoption petition. If so designated in the adoption decree, the name of the adopted person shall be changed by issuance of that decree. The clerk of the court shall, within thirty days of issuance, deliver one certified copy of any adoption decree to the petitioner, one copy of any adoption decree to the department and any agency or person making an independent placement who placed a minor person for adoption, and one certification of adoption as prescribed in section 144.19 to the state registrar of vital statistics. Upon receipt of the certification, the state registrar shall prepare a new birth certificate pursuant to section 144.23 and deliver to the parents named in the decree and any adult person adopted by the decree a copy of the new birth certificate. The parents shall pay the fee prescribed in section 144.46. If the person adopted was born outside the state, the state registrar shall forward the certification of adoption to the appropriate agency in the state or foreign nation of birth. A copy of any interlocutory adoption decree vacation shall be delivered and another birth certificate shall be prepared in the same manner as a certification of adoption is delivered and the birth certificate was originally prepared.

Sec. 70. 2000 Iowa Acts, chapter 1183, section 1, is amended by striking the amending phrase to the section and inserting in lieu thereof the following: "Section 169.5, Code Supplement 1999, is amended by adding the following new subsection:".

Sec. 71. 2000 Iowa Acts, chapter 1231, section 33, unnumbered paragraph 3, is amended to read as follows:

Of the moneys remaining on June 30, 2000, in the administrative fund established in section ~~12D.4A~~ 12D.4, \$150,000 shall not revert to the general fund of the state but shall be carried forward to the fiscal year beginning July 1, 2000, and may be expended for establishing an automated distribution system for educational savings plan benefits.

Sec. 72. 2000 Iowa Acts, chapter 1231, section 39, is amended to read as follows:

SEC. 39. Chapter 8A and section 12D.4A, Code ~~and Code~~ Supplement 1999, are repealed.

Sec. 73. 1999 Iowa Acts, chapter 7, section 9, is amended by striking the amending phrase to the section and inserting in lieu thereof the following: "Section 321.34, subsection 12, Code 1999, is amended by adding the following new paragraph:".

Sec. 74. EFFECTIVE DATES.

1. Sections 66, 67, 68, 69, 71, and 72, being deemed of immediate importance, take effect upon enactment and apply retroactively to July 1, 2000.

2. Section 65 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to March 31, 2000.

3. Section 70 takes effect July 1, 2001.

4. Section 73, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1999.

Approved April 4, 2001

**CHAPTER 25**  
**AGRICULTURAL LIENS**  
*H.F. 549*

**AN ACT** providing for agricultural liens.

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

DIVISION I  
CUSTOM CATTLE FEEDLOT LIEN

Section 1. Section 579A.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. "Lien" means a custom cattle feedlot lien created in section 579A.2.

Sec. 2. Section 579A.1, subsection 5, Code 2001, is amended to read as follows:

5. "Personal representative" means a person who is authorized by the owner of a custom cattle feedlot to act on behalf of the owner, including by executing an agreement, managing a custom cattle feedlot, ~~or filing a financing statement to perfect a lien,~~ and enforcing ~~liens~~ a lien under this chapter.

Sec. 3. Section 579A.2, Code 2001, is amended to read as follows:

579A.2 ESTABLISHMENT OF LIEN — PRIORITY.

1. A custom cattle feedlot lien is created. The lien is an agricultural lien as provided in section 554.9302.

2. A custom cattle feedlot operator shall have a lien upon the cattle and the identifiable cash proceeds from the sale of the cattle for the amount of the contract price for the feed and care of the cattle at the custom cattle feedlot pursuant to a written or oral agreement by the custom cattle feedlot operator and the person who owns the cattle, which may be enforced as provided in section 579A.3. The custom cattle feedlot operator is a secured party and the owner of the cattle is a debtor for purposes of chapter 554, article 9.

~~2. 3. The A custom cattle feedlot lien is created becomes effective at the time the cattle arrive at the custom cattle feedlot and continues for one year after the cattle have left the custom cattle feedlot. In order to preserve perfect the lien, the custom cattle feedlot operator must, within twenty days after the cattle arrive at the custom cattle feedlot, file must file a financing statement in the office of the secretary of state, a lien statement on a form prescribed by the secretary of state as provided in section 554.9308 within twenty days after the cattle arrive at the custom cattle feedlot. The secretary of state shall charge a fee of not more than ten dollars for filing the statement. The secretary of state may adopt rules pursuant to chapter 17A for the electronic filing of the statements. The statement must include all of the following:~~

~~a. An estimate of the amount of feed and care provided to the cattle pursuant to the contract. The financing statement shall substantially meet the requirements of section 554.9502, subsection 1, and include all applicable information described in section 554.9516.~~

~~b. The estimated duration of the period when the cattle are subject to feed and care at the custom cattle feedlot. The lien terminates one year after the cattle have left the custom cattle feedlot. Section 554.9515 shall not apply to a financing statement perfecting the lien. The lien may be terminated by the custom cattle feedlot operator who files a termination statement as provided in chapter 554, article 9.~~

~~e. The name of the party to the contract whose cattle are subject to feed and care at the custom cattle feedlot.~~

- d. ~~The description of the location of the custom cattle feedlot, by county and township.~~  
 e. ~~The printed name and signature of the person filing the form.~~

4. Filing a financing statement as provided in this section substantially satisfies all requirements for perfection of an agricultural lien as provided in chapter 554, article 9.

~~3. 5. a. Except as provided in chapter 581 this paragraph, a custom cattle feedlot lien created that is perfected under this section until preserved and a lien preserved under this section is superior to and shall have priority over a conflicting lien or security interest in the cattle, including a lien or security interest that was perfected prior to the creation of the perfection of the custom cattle feedlot lien provided under this section. However, a custom cattle feedlot lien shall not be superior to a veterinarian's lien created under chapter 581, that is perfected as an agricultural lien as provided in chapter 554, article 9.~~

b. A custom cattle feedlot lien that is effective but not perfected under this section has priority as provided in section 554.9322.

Sec. 4. Section 579A.4, Code 2001, is amended to read as follows:

579A.4 WAIVERS UNENFORCEABLE.

A waiver of a right created by this chapter, including but not limited to, a waiver of the right to file a lien financing statement pursuant to this chapter is void and unenforceable. This section does not affect other provisions of a contract, including a production contract or a related document, policy, or agreement which can be given effect without the voided provision.

Sec. 5. Section 579A.5, Code 2001, is amended to read as follows:

579A.5 ALTERNATE LIEN PROCEDURE.

A person who is a custom cattle feedlot operator may file a financing statement and enforce a lien as a contract producer under this chapter or chapter 579B, but not both.

## DIVISION II COMMODITY PRODUCTION CONTRACT LIEN

Sec. 6. Section 579B.1, Code 2001, is amended by adding the following new subsections:  
NEW SUBSECTION. 1A. "Continuous arrival" means the arrival of livestock at a contract livestock facility on a monthly basis or more frequently as provided in a production contract.

NEW SUBSECTION. 8A. "Lien" means a commodity production contract lien created in section 579B.3.

Sec. 7. Section 579B.1, subsection 11, Code 2001, is amended to read as follows:

11. "Personal representative" means a person who is authorized by a contract producer to act on behalf of the contract producer, including by executing an agreement, managing a contract operation, or filing a financing statement perfecting a lien, and enforcing a lien as provided in this chapter.

Sec. 8. Section 579B.3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

0A. A commodity production contract lien is created. The lien is an agricultural lien as provided in section 554.9302.

0B. A contract producer who is a party to a production contract executed pursuant to section 579B.2 shall have a lien as provided in this section. The contract producer is a secured party and the owner of the commodity is a debtor for purposes of chapter 554, article 9. The amount of the lien shall be the amount owed to the contract producer pursuant to the terms of the production contract, which may be enforced as provided in section 579B.5.

Sec. 9. Section 579B.3, subsection 1, paragraph b, Code 2001, is amended by striking the paragraph.

Sec. 10. Section 579B.3, subsection 2, paragraph b, Code 2001, is amended by striking the paragraph.

Sec. 11. Section 579B.4, Code 2001, is amended to read as follows:

579B.4 PRESERVING PERFECTING THE LIEN — FILING REQUIREMENTS.

1. ~~In order to preserve a lien created pursuant to section 579B.3, a contract producer must file in the office of the secretary of state a lien statement on a form prescribed by the secretary of state. A commodity production contract lien becomes effective and is perfected as follows:~~

~~a. If the For a lien arises arising out of producing livestock or raw milk, the lien becomes effective the contract producer must file the lien within forty five days after the day that the livestock first arrives at the contract livestock facility. In order to perfect the lien, the contract producer must file a financing statement in the office of the secretary of state as provided in section 554.9308. Unless the production contract provides for continuous arrival, the contract producer must file the financing statement for the livestock within forty-five days after the livestock's arrival. If the production contract provides for continuous arrival, the contract producer must file the financing statement for the livestock within one hundred eighty days after the livestock's arrival. The lien terminates one year after the livestock is no longer under the authority of the contract producer. For purposes of this section, livestock is no longer under the authority of the contract producer when the livestock leaves the contract livestock facility. Section 554.9515 shall not apply to a financing statement perfecting the lien. The lien may be terminated by the contract producer who files a termination statement as provided in chapter 554, article 9.~~

~~b. If the For a lien arises arising out of producing a crop, the contract producer must file the lien within forty five days after the lien becomes effective the day that the crop is first planted. In order to perfect the lien, the contract producer must file a financing statement in the office of the secretary of state as provided in section 554.9308. The contract producer must file a financing statement for the crop within forty-five days after the crop is first planted. The secretary of state shall charge a fee of not more than ten dollars for filing the statement. The secretary of state may adopt rules pursuant to chapter 17A for the electronic filing of the statements. The lien terminates one year after the crop is no longer under the authority of the contract producer. For purposes of this section, a crop is no longer under the authority of the contract producer when the crop or a warehouse receipt issued by a warehouse operator licensed under chapter 203C for grain from the crop is no longer under the custody or control of the contract producer. Section 554.9515 shall not apply to a financing statement perfecting the lien. The lien may be terminated by the contract producer who files a termination statement as provided in chapter 554, article 9.~~

2. ~~The statement must include all of the following:~~ The financing statement shall substantially meet the requirements of section 554.9502, subsection 1, and include all applicable information described in section 554.9516.

- ~~a. An estimate of the amount owed pursuant to the production contract.~~
- ~~b. The date when the livestock arrives at the contract livestock facility or the date when the crop was planted.~~
- ~~c. The estimated duration of the period when the commodity will be under the authority of the contract producer.~~
- ~~d. The name of the party to the production contract whose commodity is produced pursuant to the production contract.~~
- ~~e. The description of the location of the contract operation, by county and township.~~
- ~~f. The printed name and signature of the person filing the form.~~

3. Filing a financing statement as provided in this section satisfies all requirements for perfection of an agricultural lien as provided in chapter 554, article 9.

~~3. 4. a.~~ Except as provided in ~~chapter 581 this paragraph~~, a commodity production contract lien created that is perfected under this section 579B.3 and a lien preserved under this section ~~are~~ is superior to and shall have priority over a conflicting lien or security interest in the commodity, including a lien or security interest that was perfected prior to the ~~creation~~ perfection of the commodity production contract lien under this chapter. However, a commodity production contract lien shall not be superior to a veterinarian's lien created under chapter 581 that is perfected as an agricultural lien.

b. A commodity production contract lien that is effective but not perfected under this section has priority as provided in section 554.9322.

Approved April 4, 2001

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## CHAPTER 26

### SCHOOL CURRICULUM AND TELECOMMUNICATIONS — SUPERVISION OF STUDENTS

H.F. 89

**AN ACT** relating to the supervision of curriculum received via the Iowa communications network.

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

Section 1. Section 256.7, subsection 7, unnumbered paragraph 3, Code 2001, is amended to read as follows:

The rules shall provide that when the curriculum is taught by an appropriately licensed teacher at the location at which the telecommunications originates, the curriculum received at a remote site shall be under the supervision of a licensed teacher. The licensed teacher at the originating site may provide supervision of students at a remote site or the school district in which the remote site is located may provide for supervision at the remote site if the school district deems it necessary or if requested to do so by the licensed teacher at the originating site. For the purposes of this subsection, "supervision" means that the curriculum is monitored by a licensed teacher and the teacher is accessible to the students receiving the curriculum by means of telecommunications.

Approved April 5, 2001

**CHAPTER 27****SEXUALLY VIOLENT PREDATORS — ESCAPE FROM CUSTODY**

S.F. 94

**AN ACT** creating a new criminal offense of escape from custody by a sexually violent predator civilly committed to confinement and providing a penalty.

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

Section 1. NEW SECTION. 229A.5B ESCAPE FROM CUSTODY.

1. A respondent who is in custody under this chapter shall remain in custody unless released by court order, or discharged under section 229A.10. A respondent in custody under this chapter shall not do any of the following:

- a. Leave or attempt to leave a facility without the accompaniment of authorized personnel.
- b. Knowingly and voluntarily be absent from a place where the respondent is required to be present.
- c. Leave or attempt to leave the custody of personnel transporting or guarding the respondent while the respondent is away from a facility.

2. A respondent who violates subsection 1 commits a simple misdemeanor or may be subject to punishment for contempt. If the respondent pleads guilty to, or is convicted of, an offense under this section, or is found in contempt, or both, and is sentenced to a term of confinement, the civil commitment proceedings or treatment process may be stayed by court order until the term of confinement is served by the respondent.

3. If a respondent commits a violation of subsection 1 and remains unconfined, the attorney general or the chief law enforcement officer of the political subdivision where the violation occurs may make a public announcement that the respondent is unconfined and may provide relevant information about the respondent to the community. The attorney general may also notify a victim or the family of a victim of the respondent that the respondent is unconfined.

4. This section shall not be construed to prohibit the use of the interstate compact on mental health as provided in chapter 221.

Approved April 16, 2001

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**CHAPTER 28****CHARITABLE GIFT ANNUITIES**

S.F. 102

**AN ACT** relating to charitable gift annuities, by providing for notice and filing requirements and providing for penalties.

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

Section 1. Section 507B.3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~No~~ A person shall not engage in this state in any trade practice which is defined in this chapter as, or determined pursuant to section 507B.6 of this chapter to be, an unfair method



of competition, or an unfair or deceptive act or practice in the business of insurance. The issuance of a qualified charitable gift annuity as provided in chapter 508F does not constitute a trade practice in violation of this chapter.

Sec. 2. NEW SECTION. 508F.1 DEFINITIONS.

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

1. "Charitable gift annuity" means a transfer of property by a donor to a charitable organization in return for an annuity payable over one or two lives, if the actuarial value of the annuity is less than the value of the property transferred and the difference in value constitutes a charitable deduction for federal tax purposes.
2. "Charitable organization" means an entity described by any of the following:
  - a. Section 501(c)(3) of the Internal Revenue Code.
  - b. Section 170(c) of the Internal Revenue Code.
  3. "Commissioner" means the commissioner of insurance.
  4. "Internal Revenue Code" means the Internal Revenue Code of 1986 as designated by the Tax Reform Act of 1986, as amended to a date designated by rules adopted by the commissioner.
  5. "Property" means anything of value that is subject to ownership, and includes but is not limited to property classified as real, personal, mixed, tangible or intangible, or any present or future interest in such property.
  6. "Qualified charitable gift annuity" means a charitable gift annuity that is described by section 501(m)(5) or 514(c)(5) of the Internal Revenue Code, if all of the following apply:
    - a. The annuity agreement is issued by a charitable organization.
    - b. On the date that the annuity agreement is issued, the charitable organization has a minimum value of the lesser of three hundred thousand dollars or five times the face amount of total outstanding annuities in unrestricted cash, cash equivalents, or publicly traded securities. However, the total outstanding annuities as provided in this paragraph do not include assets funding the annuity agreement.
    - c. The charitable organization has been in continuous operation for at least three years or is a successor or affiliate of a charitable organization that has been in continuous operation for at least three years.

Sec. 3. NEW SECTION. 508F.2 QUALIFIED CHARITABLE GIFT ANNUITY IS NOT INSURANCE.

1. The issuance of a qualified charitable gift annuity does not constitute engaging in the business of insurance in this state.
2. A charitable gift annuity that meets the requirements of a qualified charitable gift annuity shall be deemed to be a qualified charitable gift annuity for purposes of this chapter, regardless of whether the charitable gift annuity was issued prior to the effective date of this Act. The issuance of that charitable gift annuity shall not be construed as engaging in the business of insurance in this state.

Sec. 4. NEW SECTION. 508F.3 ANNUITY AGREEMENT — NOTICE TO DONOR.

An agreement for a qualified charitable gift annuity executed by a charitable organization and a donor shall be in writing. The annuity agreement shall include a notice stating that a qualified charitable gift annuity is not insurance under the laws of this state and is not subject to regulation by the commissioner or protected by an insurance guaranty fund or an insurance guaranty association. The notice required by this section shall be in a separate paragraph and in a type size no smaller than that generally used in the annuity agreement.

Sec. 5. NEW SECTION. 508F.4 NOTICE FILED WITH THE COMMISSIONER.

1. A charitable organization that issues qualified charitable gift annuities in this state on and after the effective date of this Act shall file a notice with the commissioner in writing not

later than the date on which it executes the organization's first qualified charitable annuity agreement. All of the following shall apply:

- a. The notice must be signed by an officer or director of the charitable organization.
  - b. The notice must identify the name and address of the charitable organization.
  - c. The notice must include a copy of the determination letter issued by the internal revenue service.
  - d. The notice must certify that the charitable organization is a bona fide charitable organization and that the annuities issued by the charitable organization are qualified charitable gift annuities.
2. The charitable organization is not required to submit additional information, unless the information is to be used to determine appropriate penalties that may be applicable under section 508F.5.

Sec. 6. NEW SECTION. 508F.5 FAILURE TO COMPLY WITH REQUIREMENTS.

1. The failure of a charitable organization to comply with the requirements of sections 508F.3 and 508F.4 does not prevent a charitable gift annuity that otherwise meets the requirements of this chapter from constituting a qualified charitable gift annuity.
2. The commissioner shall enforce performance of the requirements of sections 508F.3 and 508F.4. The commissioner may do any of the following:
  - a. Send a letter by restricted certified mail to the charitable organization demanding that the charitable organization comply with this chapter.
  - b. Establish and impose civil penalties on the charitable organization in an amount not to exceed one thousand dollars for each qualified charitable gift annuity issued until the charitable organization complies with the requirements of this chapter.

Sec. 7. NEW SECTION. 508F.6 PENALTIES.

The commissioner may determine, after hearing, that the issuance of an annuity is not in compliance with this chapter and that the entity issuing the annuity is subject to the provisions and penalties of chapters 507A and 507B.

Sec. 8. NEW SECTION. 508F.7 NOT UNFAIR OR DECEPTIVE TRADE PRACTICE.

The issuance of a qualified charitable gift annuity does not constitute a violation of chapter 507B.

Sec. 9. NEW SECTION. 508F.8 RULES.

The commissioner may adopt rules pursuant to chapter 17A necessary to administer and enforce this chapter.

Sec. 10. NOTICE FILING REQUIREMENTS — DEADLINE. Notwithstanding section 508F.4 as enacted in this Act, a charitable organization that issues qualified charitable gift annuities in this state on and after the effective date of this Act shall have ninety days following the effective date of this Act to file a notice with the commissioner as otherwise provided in section 508F.4.

Approved April 16, 2001

## CHAPTER 29

### ELECTION OF STATE FAIR BOARD DIRECTORS

H.F. 225

**AN ACT** providing for the reorganization of districts for the election of Iowa state fair board directors, and providing for an election.

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

Section 1. Section 173.1, subsection 2, Code 2001, is amended to read as follows:

2. Two ~~board congressional district~~ directors from each ~~congressional~~ state fair board district to be elected at a convention as provided in section 173.4.

Sec. 2. NEW SECTION. 173.1A DEFINITIONS.

As used in this section,<sup>1</sup> unless the context otherwise requires:

1. "Board" means the Iowa state fair board as provided in section 173.1.
2. "Convention" means the convention held each year, to elect members of the state fair board and conduct other business of the board, as provided in section 173.2.
3. "District director" means a director of the Iowa state fair board who represents a state fair board district.
4. "State fair board district" or "district" means any of the six geographic regions established in section 173.4A.

Sec. 3. Section 173.4, subsection 2, Code 2001, is amended to read as follows:

2. A successor to a ~~board congressional district~~ director shall be elected by a majority of convention members from the same ~~congressional~~ state fair board district as the district director, according to rules adopted by the convention. A member who is also a ~~board congressional district~~ director shall not be entitled to vote for a successor to a ~~board congressional district~~ director.

Sec. 4. NEW SECTION. 173.4A STATE FAIR BOARD DISTRICTS.

The state shall be divided into six geographic regions known as state fair board districts. The regions shall include all of the following:

1. The northwest state fair board district which shall contain all of the following counties: Buena Vista, Calhoun, Cherokee, Clay, Dickinson, Emmet, Ida, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, and Woodbury.
2. The north central state fair board district which shall contain all of the following counties: Boone, Butler, Cerro Gordo, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Humboldt, Kossuth, Marshall, Mitchell, Story, Tama, Webster, Winnebago, Worth, and Wright.
3. The northeast state fair board district which shall contain all of the following counties: Allamakee, Benton, Black Hawk, Bremer, Buchanan, Chickasaw, Clayton, Delaware, Dubuque, Fayette, Howard, Jackson, Jones, Linn, and Winneshiek.
4. The southwest state fair board district which shall contain the following counties: Adair, Adams, Audubon, Carroll, Cass, Crawford, Fremont, Greene, Guthrie, Harrison, Mills, Monona, Montgomery, Page, Pottawattamie, Shelby, and Taylor.
5. The south central state fair board district which shall contain the following counties: Appanoose, Clarke, Dallas, Decatur, Jasper, Lucas, Madison, Mahaska, Marion, Monroe, Polk, Poweshiek, Ringgold, Union, Warren, and Wayne.
6. The southeast state fair board district which shall contain the following counties: Cedar, Clinton, Davis, Des Moines, Henry, Iowa, Jefferson, Johnson, Keokuk, Lee, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington.

<sup>1</sup> The word "chapter" probably intended

Sec. 5. Section 173.5, subsection 2, Code 2001, is amended to read as follows:

2. Each year, the convention shall elect a successor to one of the two ~~board-congressional district~~ directors whose term expires following the adjournment of the convention, as provided in section 173.4.

Sec. 6. Section 173.6, unnumbered paragraph 2, Code 2001, is amended to read as follows:

A member of the board who is a ~~board-congressional district~~ director, ~~elected as provided in section 173.1,~~ shall serve a term of two years. The term of a ~~board-congressional district~~ director shall begin following the adjournment of the convention at which the ~~board-congressional district~~ director was elected and shall continue until a successor is elected and qualified as provided in this chapter.

Sec. 7. ELECTIONS OF DISTRICT DIRECTORS. Notwithstanding chapter 173, the state fair board shall retain all its powers and discharge its responsibilities as required in chapter 173 as it did immediately prior to the effective date of this Act. The board shall organize an election of all district directors representing state fair board districts and the convention held in 2001 as provided in section 173.2 shall elect twelve district directors to the board, as if all the directors were successors in accordance with chapter 173 as amended by this Act. The board may propose and the convention shall establish staggered terms of office for the elected directors as provided in section 173.5.

Approved April 16, 2001

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## CHAPTER 30

### HEALTH CARE FACILITY REGULATION

*H.F. 256*

**AN ACT** relating to health care facility regulation, including information to be included in a notice of a deficiency and including the consultation of the department of inspections and appeals and the state fire marshal in promulgating rules.

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

Section 1. Section 135C.9, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. The facility has been inspected by the state fire marshal or a deputy appointed by the fire marshal for that purpose, who may be a member of a municipal fire department, and the department has received either a certificate of compliance or a provisional certificate of compliance by the facility with the fire hazard and fire safety rules and standards of the department as promulgated by the fire marshal and, where applicable, the fire safety standards required for participation in programs authorized by either Title XVIII or Title XIX of the United States Social Security Act (42 U.S.C. § 1395 to 1395ll and 1396 to 1396g). The certificate or provisional certificate shall be signed by the fire marshal or the fire marshal's deputy who made the inspection. If the state fire marshal or a deputy finds a deficiency upon inspection, the notice to the facility shall be provided in a timely manner and shall specifi-

cally describe the nature of the deficiency, identifying the Code section or subsection or the rule or standard violated. The notice shall also specify the time allowed for correction of the deficiency, at the end of which time the fire marshal or a deputy shall perform a follow-up inspection.

Sec. 2. Section 135C.9, subsection 2, Code 2001, is amended to read as follows:

2. The rules and standards promulgated by the fire marshal pursuant to subsection 1, paragraph "b" of this section shall be substantially in keeping with the latest generally recognized safety criteria for the facilities covered, of which the applicable criteria recommended and published from time to time by the national fire protection association shall be prima facie evidence. The rules and standards promulgated by the fire marshal shall be promulgated in consultation with the department and shall, to the greatest extent possible, be consistent with rules adopted by the department under this chapter.

Sec. 3. Section 135C.14, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The department shall, in accordance with chapter 17A, and with the approval of the state board of health adopt and enforce rules setting minimum standards for health care facilities. In so doing, the department, with the approval of the state board of health, may adopt by reference, with or without amendment, nationally recognized standards and rules, which shall be specified by title and edition, date of publication, or similar information. The rules and standards required by this section shall be formulated in consultation with the director of human services or the director's designee, with the state fire marshal, and with affected industry, professional, and consumer groups, and shall be designed to further the accomplishment of the purposes of this chapter and shall relate to:

Sec. 4. Section 135C.14, subsection 1, Code 2001, is amended to read as follows:

1. Location and construction of the facility, including plumbing, heating, lighting, ventilation, and other housing conditions, which shall ensure the health, safety and comfort of residents and protection from fire hazards. The rules of the department relating to protection from fire hazards and fire safety shall be promulgated by the state fire marshal in consultation with the department, and shall be in keeping with the latest generally recognized safety criteria for the facilities covered of which the applicable criteria recommended and published from time to time by the national fire protection association are prima facie evidence. To the greatest extent possible, the rules promulgated by the state fire marshal shall be consistent with the rules adopted by the department under this chapter.

Approved April 16, 2001

## CHAPTER 31

### FELONIOUS MISCONDUCT BY PUBLIC OFFICER OR EMPLOYEE — FALSIFIED WRITINGS

*H.F. 272*

**AN ACT** relating to felonious misconduct by a public officer or employee and providing a penalty.

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

Section 1. Section 721.1, Code 2001, is amended by adding the following new subsections:

**NEW SUBSECTION.** 3. Falsifies a writing, or knowingly delivers a falsified writing, with the knowledge that the writing is falsified and that the writing will become a public record of a government body.

**NEW SUBSECTION.** 4. For purposes of this section, “government body” and “public record” mean the same as defined in section 22.1.

Approved April 16, 2001

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## CHAPTER 32

### TRANSPORTATION — MISCELLANEOUS PROVISIONS

*H.F. 324*

**AN ACT** relating to transportation, including provisions on road projects, vehicle sales, movement, and reports, and mailing of notices, and providing a penalty and an effective date.

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

#### DIVISION I HIGHWAYS

Section 1. Section 306.19, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. Compensate the owner for any diminution in the market value of the property by the denial or alteration by lengthening the driveway; ~~however, in.~~ In computing ~~such the~~ diminution in value no consideration shall be given to the additional maintenance expense for maintaining the additional length of driveway, but in lieu thereof, both in condemnation proceedings or negotiated purchases, the agency shall pay to the owner the sum of ~~five~~ twenty dollars for every lineal foot of additional length of driveway located on ~~said the~~ owner’s property. This payment shall represent just compensation to ~~said the~~ property owner for the additional driveway maintenance caused by reason of the highway or road project.

Sec. 2. Section 309.35, Code 2001, is amended to read as follows:

**309.35 SURVEYS REQUIRED.**

Before proceeding to the construction of any road or roads included in ~~said the~~ secondary

road construction program where the grading, exclusive of bridges and culverts, is estimated to cost over ~~three ten~~ thousand dollars per mile, the county engineer shall cause detailed surveys and plans for ~~said~~ the road or roads to be prepared.

Sec. 3. NEW SECTION. 309.40A EMERGENCY HIGHWAY AND BRIDGE PROJECTS.

Notwithstanding section 309.40, a county may contract for the emergency repair, restoration, or reconstruction of a highway or bridge under the county's jurisdiction without advertising for bids if all of the following conditions are met:

1. The emergency was caused by an unforeseen event causing the failure of a highway, bridge, or other highway structure so that the highway is unserviceable, or where immediate action is necessary to prevent further damage or loss.

2. The county solicits written bids from three or more contractors engaged in the type of work needed.

3. The necessary work can be done for less than one hundred thousand dollars.

4. If possible, the county notifies the appropriate Iowa highway contractors' associations of the proposed work.

Sec. 4. Section 309.93, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A detailed cost accounting of all instances in the previous fiscal year of the use of day labor or public or private contracts for construction, reconstruction, or improvement projects on either the farm-to-market or secondary road system, in the manner prescribed by rule of the department under section 314.1A. The statement shall also include the costs of purchasing, leasing, or renting construction or maintenance equipment and an accounting of the use of such equipment for construction, reconstruction, or improvement projects on either the farm-to-market or secondary road system during the previous fiscal year.

Sec. 5. Section 312.14, Code 2001, is amended to read as follows:

312.14 CITIES TO SUBMIT REPORT.

Cities in the state which receive allotments of funds from road use tax funds shall prepare and deliver on or before September 30 each year to the department an annual report showing all street receipts and expenditures for the city for the previous fiscal year. The report shall include a detailed cost accounting of all instances of the use of day labor or public or private contracts for construction, reconstruction, or improvement projects on the municipal street system during the previous fiscal year, in the manner prescribed by rule of the department under section 314.1A. The report shall also include the costs of purchasing, leasing, or renting construction or maintenance equipment and an accounting of the use of such equipment for construction, reconstruction, or improvement projects on the municipal street system during the previous fiscal year.

Sec. 6. Section 313.10, Code 2001, is amended to read as follows:

313.10 BIDS — ADVERTISING.

As soon as the approved plans and specifications for any primary road construction project are filed with the department, ~~# the department~~ shall, if the estimated cost exceeds one thousand dollars, proceed to advertise for bids for the construction of ~~said~~ the improvement.

The department may contract for the emergency repair, restoration, or reconstruction of a highway or bridge without advertising for bids ~~under~~ if all of the following conditions are met:

1. The emergency was caused by an unforeseen event causing the failure of a highway, bridge, or other highway structure so that the highway is unserviceable, or where immediate action is necessary to prevent further damage or loss;

2. The department solicits written bids from three or more contractors engaged in the type of work needed; ~~and~~.

3. The necessary work can be done for less than ~~seventy-five~~ five hundred thousand dollars.

4. If possible, the department notifies the appropriate Iowa highway contractors' associations of the proposed work.

Sec. 7. Section 314.1, Code 2001, is amended to read as follows:

314.1 BIDDERS' STATEMENTS OF QUALIFICATIONS — BASIS FOR AWARDING CONTRACTS.

1. The agency having charge of the receipt of bids and the award of contracts for the construction, reconstruction, improvement, or repair or maintenance of any a highway, bridge, or culvert may require, for any highway, bridge, or culvert contract letting, that each bidder shall file with said the agency a statement showing the bidder's financial standing, equipment, and experience in the execution of like or similar work. Said The statements shall be on standard forms prepared by the department and shall be filed with said the agency previous prior to the letting at which such the bidder expects to bid. The agency may, in advance of the letting, notify the bidder as to the amount and the nature of the work for which the bidder is deemed qualified to bid. A bidder who is prequalified under this subsection by the department shall be deemed qualified for a highway, bridge, or culvert contract letting by any other agency and shall submit proof of the prequalification in a manner determined by the department if required to do so by the agency.

2. Notwithstanding any other provision of law to the contrary, a public improvement that involves the construction, reconstruction, or improvement of a highway, bridge, or culvert and that has a cost in excess of the applicable threshold in section 73A.18, 262.34, 297.7, 309.40, 310.14, 313.10, or 384.96, as modified by the bid threshold subcommittee pursuant to section 314.1B, shall be advertised and let for bid, except such public improvements that involve emergency work pursuant to section 309.40A, 313.10, 384.95, or 384.103, subsection 2. However, a public improvement that has an estimated total cost to a city in excess of a threshold of fifty thousand dollars, as modified by the bid threshold subcommittee pursuant to section 314.1B, and that involves the construction, reconstruction, or improvement of a highway, bridge, or culvert that is under the jurisdiction of a city with a population of more than fifty thousand, shall be advertised and let for bid.

3. In the award of contracts for the construction, reconstruction, improvement, or repair or maintenance of any a highway, bridge, or culvert, the agency having charge of awarding such contracts shall give due consideration not only to the prices bid but also to the mechanical or other equipment and the financial responsibility and experience in the performance of like or similar contracts. The agency may reject any or all bids, or. The agency may readvertise and relet the project without conducting an additional public hearing if no substantial changes are made to the project's plans or specifications. The agency may let by private contract or build by day labor, at a cost not in excess of the lowest bid received.

PARAGRAPH DIVIDED. Upon the completion of any contract or project on either the farm-to-market or secondary road system, the county engineer shall file with the county auditor a statement showing the total cost thereof with certificate that said the work has been done in accordance with the plans and specifications. Upon completion of a contract or project on the municipal street system, the city public works department or city engineer shall file with the city clerk a statement showing the total cost of the contract or project with a certificate that the work has been done in accordance with the plans and specifications. All contracts shall be in writing and shall be secured by a bond for the faithful performance thereof as provided by law.

Sec. 8. NEW SECTION. 314.1A DETAILED COST ACCOUNTINGS BY CITIES AND COUNTIES — RULES.

The department shall adopt rules prescribing the manner by which cities and counties shall provide a detailed cost accounting under section 309.93 or 312.14, of all instances of the use of day labor or public or private contracts for construction, reconstruction, or im-



provement projects on highways within their jurisdiction. The rules shall include definitions concerning types of projects and uniform requirements and definitions that cities and counties shall use in determining costs for such projects. The department shall establish an advisory committee composed of representatives of public sector agencies, private sector contractor organizations, and certified public employee collective bargaining organizations to make recommendations for such rules.

Sec. 9. NEW SECTION. 314.1B BID THRESHOLD SUBCOMMITTEE — ADJUSTMENTS — NOTICE.

1. The director of the department shall appoint, from the members of the advisory committee established under section 314.1A, a bid threshold subcommittee. The subcommittee shall consist of seven members, three of whom shall be representatives of local public sector agencies, three of whom shall be representatives of private sector contractor organizations, and with the remaining member being the director or the director's designee, who shall serve as chairperson of the subcommittee. A vacancy in the membership of the subcommittee shall be filled by the director.

2. a. The subcommittee shall review the competitive bid thresholds applicable to city and county highway, bridge, and culvert projects. The subcommittee shall review price adjustments for all types of city and county highway, bridge, and culvert construction, reconstruction, and improvement projects, based on changes in the construction price index from the preceding year. Upon completion of the review the subcommittee may make adjustments in the applicable bid thresholds for types of work based on the price adjustments.

b. A bid threshold shall not be adjusted to an amount that is less than the bid threshold applicable to a city or county on the effective date of this section of this Act, as provided in section 73A.18, 309.40, 310.14, 314.1, or 384.96. An adjusted bid threshold shall take effect as provided in subsection 3, and shall remain in effect until a new adjusted bid threshold is established and becomes effective as provided in this section.

3. The subcommittee shall meet to conduct the review and make the adjustments described in this section on or before August 1 of every other year, or of every year if determined necessary by the subcommittee, with the first meeting occurring on or before August 1, 2002. By September 1 of each year in which the subcommittee makes adjustments in the bid thresholds, the director shall cause an advisory notice to be published in the Iowa administrative bulletin and in a newspaper of general circulation in this state, stating the adjusted bid thresholds to be in effect on January 1 of the following year, as established by the subcommittee under this section.

Sec. 10. Section 314.13, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 5. "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

Sec. 11. Section 320.5, Code 2001, is amended to read as follows:

320.5 TERM OF GRANT.

~~Such grants~~ A grant made under section 320.4 shall be on such reasonable conditions as the state department of transportation or the board of supervisors may exact, and on such conditions as the general assembly may hereafter prescribe. Grants for gas or water mains shall not exceed twenty years.

Sec. 12. DEPARTMENT REVIEW OF CERTAIN HIGHWAY PROJECT PROCEDURES AND EQUIPMENT USE — RULES.

1. The rules adopted by the department pursuant to section 314.1A, as enacted in this Act, shall be in draft form prior to December 31, 2001, and shall specifically define the terms "construction", "reconstruction", "improvement", and "repair or maintenance" as such terms relate to highway, bridge, and culvert projects.

2. The department shall review the highway and street construction and maintenance equipment procurement policies and the use of such equipment by all entities receiving road use tax fund moneys. The department shall report its findings, and any recommendations regarding potential efficiencies and cost savings in the procurement and use of such equipment, to the general assembly by December 31, 2002. The department shall consult with public and private entities in reviewing the procurement policies and use of equipment and in formulating the department's recommendations.

Sec. 13. **DISPLACEMENT OF EMPLOYEES — OTHER EMPLOYMENT — RECALL.** If a city or county employee is displaced from employment as a result of a city's or county's compliance with the provisions of this division of this Act, which enact section 314.1, subsection 2, and amend section 314.1, unnumbered paragraph 2, and redesignate that unnumbered paragraph as section 314.1, subsection 3, the city or county shall offer the displaced employee other available employment with the city or county, as applicable. A city or county employee who is placed in such other employment or who elected to be laid off shall be eligible for recall to the position held by the employee at the time of displacement. This provision shall not supersede the provisions of any applicable collective bargaining agreement.

Sec. 14. **EFFECTIVE DATE.** The following provisions of this Act take effect July 1, 2002:

1. The provision enacting section 309.93, subsection 7.
2. The provision amending section 312.14.
3. The provision enacting section 314.1, subsection 2.
4. The provision amending section 314.1, unnumbered paragraph 2, and redesignating that unnumbered paragraph as section 314.1, subsection 3.
5. The provision enacting section 314.1B.
6. Section 13 of this Act relating to the displacement of employees.

## DIVISION II VEHICLES

Sec. 15. Section 321.1, Code 2001, is amended by adding the following new subsection: **NEW SUBSECTION.** 83B. "Tracked implement of husbandry" means a fence-line feeder, grain cart, or tank wagon that is mounted on a chassis attached to a pair of tracks that transfer the weight of the implement to the ground or the roadway surface.

Sec. 16. Section 321.20B, subsection 6, Code 2001, is amended to read as follows:

6. This section does not apply to a snowmobile or all-terrain vehicle or to a motor vehicle identified in section 321.18, subsections 1 through 6, and subsection 8.

Sec. 17. Section 321.34, Code 2001, is amended by adding the following new subsection: **NEW SUBSECTION.** 12A. An owner of a vehicle referred to in subsection 12 who applies for any type of special registration plates associated with service in the United States armed forces shall be issued one set of the special registration plates at no charge, but shall be subject to the annual registration fee of fifteen dollars if all of the following conditions are met:

- a. The owner is eligible for, but has relinquished to the department or the county treasurer or has not been issued, congressional medal of honor, ex-prisoner of war, or legion of merit special registration plates under this section, or disabled veteran registration plates under section 321.105.

- b. The owner provides the appropriate information regarding the owner's eligibility for any of the special registration plates described in paragraph "a", and regarding the owner's eligibility for the special registration plates for which the owner has applied, as required by the department.

A disabled veteran shall be exempt from payment of the fifteen dollar annual registration fee as provided in section 321.105.

Upon the death of the vehicle owner entitled to the special registration plates, the special registration plates shall be surrendered to the department or the county treasurer.

Sec. 18. Section 321.271, unnumbered paragraph 2, Code 2001, is amended to read as follows:

All written reports filed by a law enforcement officer as required under section 321.266 shall be made available to any party to an accident, the party's insurance company or its agent, the party's attorney, the federal motor carrier safety administration, or the attorney general, on written request to the department and the payment of a fee of four dollars for each copy. If a copy of an investigating officer's report of a motor vehicle accident filed with the department is retained by the law enforcement agency of the officer who filed the report, a copy shall be made available to any party to the accident, the party's insurance company or its agent, the party's attorney, the federal motor carrier safety administration, or the attorney general, on written request and the payment of a fee. ~~The~~ However, the attorney general and the federal motor carrier safety administration shall not be required by the department or the law enforcement agency to pay a fee for a copy of a report filed by a law enforcement or investigating officer.

Sec. 19. Section 321.423, subsection 6, Code 2001, is amended to read as follows:

6. AMBER FLASHING LIGHT. A farm tractor, farm tractor with towed equipment, self-propelled implement of husbandry, road construction or maintenance vehicle, road grader, or other vehicle principally designed for use off the highway which, when operated on a primary or secondary road, is operated at a speed of ~~twenty-five~~ thirty-five miles an hour or less, shall be equipped with and display an amber flashing light visible from the rear at any time from sunset to sunrise. If the amber flashing light is obstructed by the towed equipment, the towed equipment shall also be equipped with and display an amber flashing light as required under this subsection. All vehicles specified in this subsection which are manufactured for sale or sold in this state shall be equipped with an amber flashing light in accordance with the standards of the American society of agricultural engineers.

Sec. 20. Section 321.450, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding other provisions of this section to the contrary, a driver who is engaged exclusively in intrastate commerce and who operates a truck or truck-tractor exclusively for the movement of refined oil products may drive twelve hours, be on duty sixteen hours in a twenty-four-hour period, and be on duty seventy hours in seven consecutive days, or eighty hours in eight consecutive days.

Sec. 21. Section 321.457, subsection 2, paragraph d, Code 2001, is amended to read as follows:

d. A combination of three vehicles coupled together one of which is a motor vehicle, unladen or with load, other than a truck tractor, shall not have an overall length, inclusive of front and rear bumpers, in excess of ~~sixty~~ seventy feet.

Sec. 22. Section 321.457, subsection 2, Code 2001, is amended by adding the following new paragraphs:

NEW PARAGRAPH. j. A motor home shall not have an overall length, excluding front and rear bumpers and safety equipment, in excess of forty-five feet.

NEW PARAGRAPH. k. A combination of two vehicles coupled together, one of which is a motor home, shall not have an overall length in excess of sixty-five feet.

NEW PARAGRAPH. l. A combination of two vehicles coupled together, one of which is a travel trailer or fifth-wheel travel trailer, shall not have an overall length in excess of sixty-five feet.

Sec. 23. Section 321.463, subsection 4, paragraph b, subparagraph (1), Code 2001, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any provision of this section to the contrary, a tracked implement of husbandry operated on the highways of this state shall not have a maximum gross weight in excess of ninety-six thousand pounds.

Sec. 24. Section 321.463, subsection 4, paragraph b, subparagraph (1), unnumbered paragraph 2, Code 2001, is amended to read as follows:

A fence-line feeder, grain cart, ~~or tank wagon,~~ or tracked implement of husbandry shall comply with the other provisions of this section and chapter when operated over a bridge in this state. A local authority may issue a special permit, based on a statewide standard developed by the department, allowing the operation over a bridge within its jurisdiction of a fence-line feeder, grain cart, ~~or tank wagon,~~ or tracked implement of husbandry with a weight in excess of the weights allowed under this chapter.

Sec. 25. Section 321.463, subsection 5, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The maximum gross weight allowed to be carried on a tracked implement of husbandry when operated on a noninterstate highway bridge is as follows:

NONINTERSTATE HIGHWAY BRIDGES  
MAXIMUM GROSS WEIGHT TABLE  
TRACKED IMPLEMENTS OF HUSBANDRY

Length of Track in Feet	Weight in Pounds
4	34,000
5	34,000
6	34,000
7	34,000
8	42,000
9	42,500
10	45,000
11	46,000
12	47,000
13	48,500
14	49,500
15	50,500
16	51,500
17	54,000
18	55,000
19	56,000
20	57,000
21	58,000
22	59,000
23	60,000
24	61,000
25	62,000
26	63,000
27	64,000
28	65,000
29	66,000
30	67,000
31	68,000
32	69,000

33	70,000
34	71,000
35	72,000
36	73,000
37	74,000
38	75,000
39	76,000
40	77,000
41	78,000
42	79,000
43	80,000

“Length of track in feet” means the length of track on one side of the tracked implement of husbandry which is in contact with the ground or roadway surface.

Sec. 26. Section 321E.8, subsection 2, Code 2001, is amended to read as follows:

2. Vehicles with indivisible loads having an overall width not to exceed ~~twelve~~ thirteen feet five inches or mobile homes, including appurtenances, having an overall width not to exceed ~~twelve~~ thirteen feet five inches and an overall length not to exceed one hundred twenty feet zero inches may be moved on highways specified by the permitting authority for unlimited distances if the height of the vehicle and load does not exceed fifteen feet five inches and the total gross weight of the vehicle does not exceed one hundred thirty-six thousand pounds. The vehicle owner or operator shall verify with the permitting authority prior to movement of the load that highway conditions have not changed so as to prohibit movement of the vehicle. Any cost to repair damage to highways or highway structures shall be borne by the owner or operator of the vehicle causing the damage. Permitted vehicles under this subsection shall not be allowed to travel on any portion of the interstate highway system.

Sec. 27. Section 321E.8, subsection 4, Code 2001, is amended by striking the subsection.

Sec. 28. Section 321E.14, Code 2001, is amended to read as follows:

#### 321E.14 FEES FOR PERMITS.

The department or local authorities issuing permits shall charge a fee of twenty-five dollars for an annual permit issued under section 321E.8, subsection 1; or 3, ~~or 4~~, a fee of three hundred dollars for an annual permit issued under section 321E.8, subsection 2, a fee of two hundred dollars for a multi-trip permit, and a fee of ten dollars for a single-trip permit, and shall determine charges for special permits issued pursuant to section 321E.29 by rules adopted pursuant to chapter 17A. Fees for the movement of buildings, parts of buildings, or unusual vehicles or loads may be increased to cover the costs of inspections by the issuing authority. A fee not to exceed two hundred fifty dollars per day or a prorated fraction of that fee per person and car for escort service may be charged when requested or when required under this chapter. Proration of escort fees between state and local authorities when more than one governmental authority provides or is required to provide escort for a movement during the period of a day shall be determined by rule under section 321E.15. The department and local authorities may charge a permit applicant for the cost of trimming trees and removal and replacement of natural obstructions or official signs and signals or other public or private property required to be removed during the movement of a vehicle and load. In addition to the fees provided in this section, the annual fee for a permit for special mobile equipment, as defined in section 321.1, subsection 75, operated pursuant to section 321E.7, subsection 2, with a combined gross weight up to and including eighty thousand pounds shall be twenty-five dollars and for a combined gross weight exceeding eighty thousand pounds, fifty dollars.

The annual fee for an all-system permit is one hundred twenty dollars which shall be deposited in the road use tax fund.

DIVISION III  
VEHICLE MANUFACTURERS, DISTRIBUTORS,  
DEALERS, AND FRANCHISERS

Sec. 29. Section 322.2, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 20A. "Special equipment" means equipment installed on a motor truck which, in combination with the motor truck on which the equipment is installed, constitutes a self-contained unit configured for a specific purpose. To constitute special equipment, a minimum of seven thousand five hundred dollars or twenty-five percent of the retail value of the motor truck, whichever is greater, must be expended in installing the equipment on the motor truck, including the cost of the equipment. "Special equipment" does not include equipment designed for the transportation of passengers.

Sec. 30. Section 322.3, subsection 13, Code 2001, is amended to read as follows:

13. A manufacturer, distributor, or importer of motor vehicles or agent or representative of such manufacturer, distributor, or importer shall not reduce the amount of compensation for, or disallow a claim for, warranty any of the following if twelve months or more have passed since the claim was submitted to the manufacturer, distributor, or importer or agent or representative thereof:

a. Warranty parts, repairs, or service supplied by a motor vehicle dealer if twelve months or more have passed since the warranty claim was submitted to the manufacturer, distributor, or importer of motor vehicles or agent or representative thereof.

b. Sales or leasing incentives provided to a motor vehicle dealer or to a customer of a motor vehicle dealer including, but not limited to, rebates and discounted interest rates.

PARAGRAPH DIVIDED. The twelve-month limitation shall not apply if a court of competent jurisdiction in this state finds the ~~warranty~~ claim was fraudulent.

Sec. 31. Section 322.3, subsection 14, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A manufacturer, ~~distributor, wholesaler,~~ or importer shall not directly or indirectly be licensed as, own an interest in, operate, or control a motor vehicle dealer. This subsection shall not prohibit any of the following:

Sec. 32. Section 322.5, subsection 2, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. In addition to selling motor vehicles at the motor vehicle dealer's principal place of business and at car lots, a motor vehicle dealer may do any of the following:

(1) Display new motor vehicles at fairs, vehicle shows, and vehicle exhibitions, upon application for and receipt of a temporary permit issued by the department.

(2) Display, offer for sale, and negotiate sales of new motor vehicles at county or district fairs, as described in chapter 174, vehicle shows, and vehicle exhibitions, upon application for and receipt of a temporary permit issued by the department. Such activities may only be conducted at fairs, vehicle shows, and vehicle exhibitions that are held in the county of the motor vehicle dealer's principal place of business. A sale of a motor vehicle by a motor vehicle dealer shall not be completed and an agreement for the sale of a motor vehicle shall not be signed at a fair, vehicle show, or vehicle exhibition. All such sales shall be consummated at the motor vehicle dealer's principal place of business.

b. An application for a temporary permit under this subsection shall be made upon a form provided by the department and shall be accompanied by a ten dollar permit fee. The department may issue a temporary permit for a period not to exceed fourteen days.

Sec. 33. Section 322.28, Code 2001, is amended to read as follows:

**322.28 DISTRIBUTOR OR WHOLESALER'S LICENSE.**

A distributor or wholesaler of new motor vehicles shall not sell or offer for sale a new

motor vehicle at retail unless licensed as a new motor vehicle dealer. A licensed distributor or wholesaler of a new motor vehicle shall not register or title a new motor vehicle held for sale and shall transfer ownership of a new motor vehicle by assigning the manufacturer's statement of origin for the vehicle.

Sec. 34. Section 322.29, subsection 5, Code 2001, is amended to read as follows:

5. Upon payment of the license fee as provided in this section, a person who installs cranes, hook loaders, buckets, aerial ladders, ~~or tanks~~, or special equipment on new completed motor trucks with a gross vehicle weight rating of ~~nineteen~~ fourteen thousand five hundred pounds or more may be issued a license as a wholesaler of new motor vehicles of the make and model on which the equipment is installed without written authorization from the manufacturer.

Sec. 35. Section 322A.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. "Substantially detrimental" means that, by a preponderance of the evidence, the market share of the franchiser's motor vehicles in the community will be significantly reduced in comparison to the franchiser's historical market share in the community.

Sec. 36. Section 322A.11, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Notwithstanding the terms, provisions, or conditions of any agreement or franchise, the following shall not ~~constitute~~ be considered facts supporting a finding of good cause for the termination or noncontinuation of a franchise, or for entering into a franchise for the establishment of an additional dealership in a community for the same line-make:

Sec. 37. Section 322A.11, subsections 2 and 5, Code 2001, are amended to read as follows:

2. The change of ownership of the franchisee's dealership or the change of executive management of the franchisee's dealership, unless the franchiser, having the burden of proof, proves that such change of ownership or executive management will be substantially detrimental to the distribution of the franchiser's motor vehicles in the community and that good cause for the termination or noncontinuation of the franchise or for the establishment of an additional dealership otherwise exists.

5. The fact that the dealership does not meet an index or standard established by the franchiser, unless the franchiser proves that the failure of the dealership to meet the index or standard will be substantially detrimental to the distribution of the franchiser's motor vehicles in the community and that good cause for the termination or noncontinuation of the franchise or for the establishment of an additional dealership otherwise exists.

Sec. 38. Section 322B.3, subsection 4, Code 2001, is amended to read as follows:

4. PERMITS FOR FAIRS, SHOWS, AND EXHIBITIONS. Mobile home dealers, in addition to selling mobile homes at their principal place of business and lots, may, upon receipt of a temporary permit approved by the department, display and offer new mobile homes for sale and negotiate sales of new mobile homes at fairs, shows, and exhibitions ~~which are approved by the department~~. Application for temporary permits shall be made upon forms provided by the department and shall be accompanied by a ten dollar permit fee. Temporary permits shall be issued for a period not to exceed fourteen days.

Sec. 39. Section 322C.3, subsection 9, Code 2001, is amended to read as follows:

9. A travel trailer dealer may display new travel trailers at fairs, shows, and ~~exhibits~~ exhibitions on any day of the week as provided in this subsection. Travel trailer dealers, in addition to selling travel trailers at their principal place of business and lots, may, upon receipt of a temporary permit approved by the department, display and offer new travel trailers for sale and negotiate sales of new travel trailers at fairs, shows, and exhibitions

~~which are approved by the department.~~ Application for temporary permits shall be made upon forms provided by the department and shall be accompanied by a ten dollar permit fee. Temporary permits shall be issued for a period not to exceed fourteen days.

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

1. Section 31 of this Act, amending section 322.3, subsection 14.
2. Section 33 of this Act, amending section 322.28.
3. Section 35 of this Act, adding section 322A.1, subsection 9A.
4. Section 36 of this Act, amending section 322A.11, unnumbered paragraph 1.
5. The provision of section 37 of this Act, amending section 322A.11, subsection 2.

#### DIVISION IV MAILINGS

Sec. 41. Section 321.16, unnumbered paragraph 1, Code 2001, is amended to read as follows:

When the department is authorized or required to give notice under this chapter or any other law regulating the operation of vehicles, unless a different method of giving ~~notices~~ notice is expressly prescribed, notice shall be given either by personal delivery to the person to be so notified or by personal service in the manner of original notice by R.C.P. 56.1, paragraph "a," or by certified first class mail addressed to the person at the address shown ~~by in~~ the records of the department, notwithstanding chapter 17A. Return acknowledgment is required to prove the latter service. The department shall adopt rules regarding the giving of notice by first class mail, the updating of addresses in department records, and the development of affidavits verifying the mailing of notices under this chapter and chapter 321J. A person's refusal to accept or a claim of failure to receive a notice of revocation, suspension, or bar mailed by first class mail to the person's last known address shall not be a defense to a charge of driving while suspended, revoked, denied, or barred.

Sec. 42. Section 321.182, subsection 1, Code 2001, is amended to read as follows:

1. Make application on a form provided by the department which shall include the applicant's full name, signature, current mailing address, current residential address, date of birth, social security number, and physical description including sex, height, and eye color. The application may contain other information the department may require by rule. A licensee shall notify the department when the licensee's mailing address changes and provide the new address within thirty days of obtaining the new address. The application provided by the department shall include a statement for the applicant to sign that acknowledges the applicant's knowledge of the requirement to notify the department of a mailing address change. The penalty under section 321.482 shall not apply to a licensee's failure to notify the department of such an address change.

Sec. 43. Section 321.196, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Except as otherwise provided, a driver's license, other than an instruction permit, chauffeur's instruction permit, or commercial driver's instruction permit issued under section 321.180, expires, at the option of the applicant, two or four years from the licensee's birthday anniversary occurring in the year of issuance if the licensee is between the ages of seventeen years eleven months and seventy years on the date of issuance of the license. If the licensee is under the age of seventeen years eleven months or age seventy or over, the license is effective for a period of two years from the licensee's birthday anniversary occurring in the year of issuance. Except as required in section 321.188, and except for a motorcycle instruction permit issued in accordance with section 321.180 or 321.180B, a driver's license is renewable without written examination or penalty within a period of



sixty days after its expiration date and without a driving test within a period of one year after its expiration date. A person shall not be considered to be driving with an invalid license during a period of sixty days following the license expiration date. However, for a license renewed within the sixty-day period, the date of issuance shall be considered to be the previous birthday anniversary on which it expired. Applicants whose licenses are restricted due to vision or other physical deficiencies may be required to renew their licenses every two years. For the purposes of this section, the birthday anniversary of a person born on February 29 shall be deemed to occur on March 1. The department in its discretion may authorize the renewal of a valid driver's license other than a commercial driver's license upon application without an examination provided that the applicant satisfactorily passes a vision test as prescribed by the department, files a vision report in accordance with section 321.186A which shows that the applicant's visual acuity level meets or exceeds those required by the department, or is eligible for renewal by mail pursuant to rules adopted by the department. The department may assess an applicant a fee of no more than two dollars for administration and mailing expenses for providing for renewal of the applicant's driver's license by mail. An application for renewal of a driver's license shall include a statement for the applicant to sign that acknowledges the applicant's knowledge of the requirement to notify the department of a mailing address change under section 321.182, subsection 1.

Sec. 44. Section 321.208, subsection 8, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The effective date of disqualification shall be thirty days after notification. Immediate notice of disqualification may be served on a person operating a commercial motor vehicle who refused to submit to a test or whose test results indicate an alcohol concentration of 0.04 or more by the peace officer administering the chemical test or, notwithstanding chapter 17A, the department may notify the person by ~~certified~~ first class mail. If immediate notice is served, the peace officer shall take the commercial driver's license or permit of the driver, if issued within the state, and issue a temporary commercial driver's license effective for only thirty days. The peace officer shall immediately send the person's commercial driver's license to the department in addition to the officer's certification required by this subsection.

Sec. 45. NEW SECTION. 321.211A APPEAL OF EXTENDED SUSPENSION OR REVOCATION.

Notwithstanding any provision of law to the contrary, if a person was not served with notice of a suspension or revocation under section 321.16, or section 321J.9, subsection 4, or section 321J.12, subsection 3, the person may appeal to the department an extension of the period of suspension or revocation based upon a conviction under section 321.218 or 321J.21. At the hearing on the appeal, the sole issue shall be whether the department failed to send notice of the underlying suspension or revocation to the person at the address contained in the department's records. If the department determines it failed to send such notice, the department shall rescind the extended suspension or revocation resulting from the conviction and send notice of the department's determination to the court that rendered the conviction. Upon receipt of the notice, the court shall enter an order exonerating the person of the conviction, and ordering that the record of the conviction be expunged by the clerk of the district court.

Sec. 46. Section 321.556, subsection 1, Code 2001, is amended to read as follows:

1. If, upon review of the record of convictions of any person, the department determines that the person appears to be a habitual offender, the department shall immediately notify the person in writing and afford the licensee an opportunity for a hearing. ~~The Notwithstanding chapter 17A,~~ the notice shall meet the requirements of section ~~17A.12~~ 321.16 and

shall be served in the manner provided in that section. Service of notice on any nonresident of this state may be made in the same manner as provided in sections 321.498 through 321.506. A peace officer stopping a person for whom a notice has been issued under this section may personally serve the notice upon forms approved by the department to satisfy the notice requirements of this section. A peace officer may confiscate the driver's license of a person if the license has been revoked or has been suspended subsequent to a hearing and the person has not forwarded the driver's license to the department as required.

Sec. 47. Section 321J.9, subsection 4, Code 2001, is amended to read as follows:

4. The effective date of revocation shall be ten days after the department has mailed notice of revocation to the person by ~~certified first class mail, or, on behalf of the department, a notwithstanding chapter 17A. The peace officer offering or directing who requested or directed~~ the administration of a chemical test may, on behalf of the department, serve immediate notice of intention to revoke and of revocation on a person who refuses to permit chemical testing. If the peace officer serves ~~that~~ immediate notice, the peace officer shall take the Iowa license or permit of the driver, if any, and issue a temporary license effective for ~~only~~ ten days. The peace officer shall immediately send the person's license to the department along with the officer's certificate indicating the person's refusal to submit to chemical testing.

Sec. 48. Section 321J.12, subsection 3, Code 2001, is amended to read as follows:

3. The effective date of the revocation shall be ten days after the department has mailed notice of revocation to the person by ~~certified first class mail, notwithstanding chapter 17A. The peace officer who requested or directed the administration of the chemical test~~ may, on behalf of the department, serve immediate notice of revocation on a person whose test results indicated the presence of a controlled substance or other drug, or an alcohol concentration equal to or in excess of the level prohibited by section 321J.2, or a combination of alcohol and another controlled substance or drug in violation of section 321J.2.

#### DIVISION V MISCELLANEOUS PROVISIONS

Sec. 49. **RELOCATION OF UTILITY LINES AND MAINS — STUDY.** The state department of transportation shall conduct a study and present a report to the general assembly by January 31, 2002, regarding the compliance by utility companies with requirements regarding the relocation of electrical or telephone transmission lines or of water and gas mains on highway construction or reconstruction projects. The report shall document cases when relocation of such lines or mains on a highway project was not timely, state the financial impact on such projects, and may include department recommendations for further remedies to ensure timely compliance with utility relocation requirements.

Approved April 16, 2001

**CHAPTER 33**

## DRIVER EDUCATION — INSTRUCTION TIME

H.F. 353

**AN ACT** relating to the amount of classroom instruction offered in an approved driver education course as programmed by the department of education.

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

Section 1. Section 321.178, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

An approved driver education course as programmed by the department of education shall consist of at least thirty clock hours of classroom instruction, of which no more than one hundred eighty minutes shall be provided to a student in a single day, and six or more clock hours of laboratory instruction of which at least three clock hours shall consist of street or highway driving. Classroom instruction shall include all of the following:

Approved April 16, 2001

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**CHAPTER 34**PROPOSED UNIFORM COMPUTER INFORMATION  
TRANSACTIONS ACT — EFFECT — INTENT

H.F. 569

**AN ACT** relating to the proposed uniform computer information transactions Act.

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

Section 1. 2000 Iowa Acts, chapter 1189, section 32, subsection 2, is amended to read as follows:

2. This section of this Act takes effect July 1, ~~2001~~ 2002.

Sec. 2. 2000 Iowa Acts, chapter 1189, section 33, is amended to read as follows:

SEC. 33. LEGISLATIVE INTENT. It is the intent of the general assembly that the general assembly consider the proposed uniform computer information transactions Act, as adopted by the national conference of commissioners on uniform state laws, during the ~~2001~~ 2002 regular session.

Approved April 16, 2001

**CHAPTER 35****MAYOR-COUNCIL CITY GOVERNMENT — APPOINTMENT  
AND DISMISSAL OF POLICE CHIEF OR MARSHAL***H.F. 624*

**AN ACT** relating to the appointment and dismissal of a police chief or marshal under a mayor-council form of city government.

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

Section 1. Section 372.4, unnumbered paragraph 3, Code 2001, is amended to read as follows:

The mayor shall appoint a council member as mayor pro tem, and shall appoint and dismiss the marshal or chief of police except where an intergovernmental agreement makes other provisions for police protection or as otherwise provided in section 400.13. However, the appointment and dismissal of the marshal or chief of police are subject to the consent of a majority of the council. Other officers must be selected as directed by the council. The mayor is not a member of the council and ~~may~~ shall not vote as a member of the council.

Approved April 16, 2001

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**CHAPTER 36****GRAIN DEALER REGULATION — EXCEPTIONS***H.F. 628*

**AN ACT** relating to the regulation of grain dealers by providing an exception for limited liability companies that produce renewable fuel.

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

Section 1. Section 203.1, subsection 8, paragraph j, Code 2001, is amended to read as follows:

j. A cooperative ~~corporation~~ organized under chapter 501, if the cooperative buys only purchases grain from its members who are producers who are members or from a licensed grain dealer, and the cooperative does not resell that grain.

Sec. 2. Section 203.1, subsection 8, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. A limited liability company as defined in section 490A.102 that meets all of the following requirements:

(1) The majority of voting rights in the limited liability company are held by its members who are producers.

(2) The purpose of the limited liability company is to produce renewable fuel as defined in section 159A.2.

(3) The limited liability company only purchases grain from its members who are producers or from a licensed grain dealer.

(4) The limited liability company does not resell grain that it purchases.

Approved April 16, 2001

## CHAPTER 37

### ON-SITE WASTEWATER SYSTEMS ASSISTANCE PROGRAM

S.F. 479

**AN ACT** relating to wastewater systems, establishing a fund, appropriating moneys from the fund, and providing an effective date.

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

Section 1. Section 466.7, subsection 4, Code 2001, is amended by striking the subsection.

Sec. 2. NEW SECTION. 466.8 ON-SITE WASTEWATER SYSTEMS ASSISTANCE PROGRAM.

The department of natural resources shall establish an on-site wastewater<sup>1</sup> assistance program for the purpose of providing low-interest loans to homeowners residing outside the boundaries of a city for improving on-site wastewater disposal systems.

1. The environmental protection commission shall adopt rules for carrying out the program including but not limited to criteria for homeowner participation, the methods used to provide loans, and financing terms and limits.

2. The department may make and execute agreements with public or private entities, including lending institutions as defined in section 12.32, as required to administer the program.

3. Assistance provided to homeowners shall not be used to pay the nonfederal share of the cost of any wastewater system projects receiving grants under the federal Clean Water Act, 33 U.S.C. § 1381-1387.

4. The department shall report to the general assembly annually on the progress of the on-site wastewater<sup>2</sup> assistance program.

Sec. 3. NEW SECTION. 466.9 ON-SITE WASTEWATER SYSTEMS ASSISTANCE FUND.

1. An on-site wastewater systems assistance fund is established as a separate fund in the state treasury under the control of the department. Moneys in the fund are appropriated to the department for the exclusive purpose of supporting and administering the on-site wastewater systems assistance program as established in section 466.8.

2. The fund shall consist of all of the following:

a. Moneys appropriated to the department by the general assembly for deposit in the fund or to carry out the purposes of the on-site wastewater systems assistance program.

b. Moneys provided to the department by the federal government to carry out the purpose of administering the programs, policies, and undertakings authorized in the federal Clean Water Act, 33 U.S.C. § 1381-1387.

c. Moneys collected by the department pursuant to loan agreements from homeowners receiving loans under the on-site wastewater systems assistance program.

d. Any other moneys obtained or accepted by the department for deposit in the fund.

3. a. The fund shall consist of the following accounts:

(1) The financing account which shall be used for the exclusive purpose of providing financing to homeowners residing outside the boundaries of a city with improving on-site wastewater systems under the on-site wastewater systems assistance program.

(2) The administration account which shall be used by the department to defray expenses associated with carrying out the on-site wastewater systems assistance program.

b. Of all moneys deposited into the fund each year, the department shall credit at least ninety-six percent of the moneys to the financing account and any remaining moneys to the administration account.

<sup>1</sup> See chapter 176, §69 herein

<sup>2</sup> See chapter 176, §70 herein

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

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 17, 2001

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## CHAPTER 38

### NOTARIAL ACTS AND OFFICERS

H.F. 259

**AN ACT** relating to the duties and office of the secretary of state in commissioning notarial officers.

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

Section 1. Section 9E.3, Code 2001, is amended by adding the following new subsection: **NEW SUBSECTION.** 4. A person shall not be appointed as a notary public by the secretary of state unless the person is at least eighteen years of age and not disqualified from voting as provided in section 48A.6.<sup>1</sup>

Sec. 2. Section 9E.6, subsection 3, Code 2001, is amended by striking the subsection.<sup>2</sup>

Sec. 3. **NEW SECTION.** 9E.6A ACQUISITION AND USE OF STAMP OR SEAL.

1. Each person performing a notarial act pursuant to section 9E.10 must acquire and use a stamp or seal as provided in this chapter. However, this section shall not apply to a person performing a notarial act under federal authority. The stamp or seal shall contain all of the following:

a. For a person appointed as a notary public pursuant to section 9E.3, all of the following:

- (1) The words "Notarial Seal" and "Iowa".
- (2) The person's name.
- (3) The words "Commission Number" followed by a number assigned to the notary public by the secretary of state.

(4) The words "My Commission Expires" followed either by the date that the notary public's term would ordinarily expire as provided in section 9E.4 or a blank line. If the seal or stamp contains a blank line, the person must print the date that the notary public's term would ordinarily expire on the blank line imprinted on each document, instrument, or paper subject to a notarial act.

b. For any other person, all of the following:

- (1) The words "Notarial Seal" and "Iowa".
- (2) The person's name.
- (3) The person's title under which the person may perform a notarial act under section 9E.10.<sup>3</sup>

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<sup>1</sup> See chapter 176, §45, 46 herein

<sup>2</sup> See chapter 176, §45, 46 herein

<sup>3</sup> See chapter 176, §45, 46 herein

Sec. 4. Section 9E.14, subsection 1, Code 2001, is amended to read as follows:

1. A notarial act must be evidenced by a certificate signed and dated by a notarial officer. The certificate must include identification of the jurisdiction in which the notarial act is performed and the title of the office of the notarial officer and ~~may~~ shall include the official stamp or seal of the office. ~~If the officer is a notary public, the certificate may, but need not indicate the date of expiration, if any, of the commission of office.~~ If the notarial officer is a commissioned officer on active duty in the military service of the United States, ~~it~~ the certificate must also include the officer's rank. <sup>4</sup>

Sec. 5. Section 9E.15, Code 2001, is amended to read as follows:

9E.15 SHORT FORMS.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 9E.14, subsection 1.

1. For an acknowledgment in an individual capacity:

State of .....

(County) of .....

This instrument was acknowledged before me on

..... by .....

(date) (name(s) of person(s))

.....

(signature of notarial officer)

(Stamp or Seal, if any)

.....

Title (and Rank)

(My commission expires: .....) )

2. For an acknowledgment in a representative capacity:

State of .....

(County) of .....

This instrument was acknowledged before me on (date) by (name(s) of person(s)) as (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed).

.....

(signature of notarial officer)

(Stamp or Seal, if any)

.....

Title (and Rank)

(My commission expires: .....) )

3. For a verification upon oath or affirmation:

State of .....

(County) of .....

Signed and sworn to (or affirmed) before me on

..... by .....

(date) (name(s) of person(s))

making statement

.....

(signature of notarial officer)

(Stamp or Seal, if any)

.....

Title (and Rank)

(My commission expires: .....) )

<sup>4</sup> See chapter 176, §45, 46 herein

4. For witnessing or attesting a signature:  
 State of .....  
 (County) of .....  
 Signed or attested before me on .....  
 ..... by .....  
 (date) (name(s) of person(s))  
 .....  
 (signature of notarial officer)  
 (Stamp or Seal, if any)  
 .....  
 Title (and Rank)  
 (My commission expires: .....)

5. For attestation of a copy of a document:  
 State of .....  
 (County) of .....  
 I certify that this is a true and correct copy of a document in the possession of .....  
 .....  
 Dated .....  
 .....  
 (signature of notarial officer)  
 (Stamp or Seal, if any)  
 .....  
 Title (and Rank)  
 (My commission expires: .....)<sup>5</sup>

Sec. 6. Section 558.15, Code 2001, is amended to read as follows:

558.15 NOTARIAL SEALS OF NONRESIDENTS — PRESUMPTION.

Any notarial stamp or seal purporting to have been affixed to any instrument in writing, by any notary public residing elsewhere than in this state, shall be prima facie evidence that the words thereon engraved conform to the requirements of the law of the place where such certificate purports to have been made.<sup>6</sup>

Sec. 7. Section 558.39, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The following forms of acknowledgment shall be sufficient in the cases to which they are respectively applicable. In each case where one of these forms is used, the name of the state and county where the acknowledgment is taken shall precede the body of the certificate, and the signature and official title of the officer shall follow it as indicated in the first form and shall constitute a part of the certificate, and the stamp or seal of the officer shall be attached when necessary under the provision of this chapter and as provided in section 9E.6.<sup>7</sup> No certificate of acknowledgment shall be held to be defective on account of the failure to show the official title of the officer making the certificate if such title appears either in the body of such certificate or in connection therewith, or with the signature thereto.<sup>8</sup>

Sec. 8. Section 558.39, subsection 13, unnumbered paragraph 3, Code 2001, is amended to read as follows:

(In all cases add a stamp or seal as provided in section 9E.6A and a signature and title of the officer taking the acknowledgment, and strike from between the parentheses the word or clause not used, as the case may be.)<sup>9</sup>

Approved April 17, 2001

<sup>5</sup> See chapter 176, §45, 46 herein  
<sup>6</sup> See chapter 176, §45, 46 herein  
<sup>7</sup> See chapter 176, §76 herein  
<sup>8</sup> See chapter 176, §45, 46 herein  
<sup>9</sup> See chapter 176, §45, 46 herein



**CHAPTER 39**  
CAMPUS SECURITY AND SEXUAL ABUSE  
POLICIES AND REPORTS  
*H.F. 270*

**AN ACT** striking certain filing requirements related to campus crime statistics and sexual abuse policies.

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

Section 1. Section 260C.14, subsection 19, Code 2001, is amended by striking the subsection.

Sec. 2. Section 261.9, subsection 1, paragraph g, Code 2001, is amended by striking the paragraph.

Sec. 3. Section 262.9, subsection 28, Code 2001, is amended by striking the subsection.

Approved April 17, 2001

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**CHAPTER 40**  
DESIGNATION OF MODEL COMMUNITIES — APPROVAL  
*H.F. 383*

**AN ACT** relating to the designation of model communities in projects, pilot projects, or similar initiatives undertaken by the governor or the executive branch.

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

Section 1. NEW SECTION. 7.18 MODEL COMMUNITY PROJECTS.

1. As used in this section, unless the context otherwise suggests, “community” means a city, county, or any combination of cities and counties.

2. During any project, pilot project, or similar initiative undertaken by the governor or the executive branch which includes the designation of a model community in the state, the approval of all of the following entities must be obtained by a simple majority vote prior to the granting of an official model community designation and prior to any state financial support being disbursed to any person under the project, pilot project, or similar initiative:

- a. The city council of any city included in a proposed model community.
- b. The county board of supervisors of a county included in a proposed model community.
- c. Each school board of a school district serving students in a proposed model community.

Approved April 17, 2001

## CHAPTER 41

### AREA EDUCATION AGENCY ADMINISTRATIVE COSTS REIMBURSEMENT — FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT FUNDS

*H.F. 462*

**AN ACT** relating to the reimbursement of administrative costs of an area education agency for services provided by the agency under part C of the federal Individuals With Disabilities Education Act, and providing an effective date.

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

Section 1. Section 256B.15, subsection 7, paragraph b, Code 2001, is amended to read as follows:

b. The area education agencies shall, after determining the administrative costs associated with the implementation of medical assistance reimbursement for the eligible services, be permitted to retain up to twenty-five percent of the federal portion of the total amount reimbursed to pay for the administrative costs. This limitation does not apply to medical assistance reimbursement for services provided by an area education agency under part C of the federal Individuals With Disabilities Education Act. Funds received under this section shall not be considered or included as part of the area education agencies' budgets when calculating funds that are to be received by area education agencies during a fiscal year.

Sec. 2. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 17, 2001

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## CHAPTER 42

### TERMINATION OF AGRICULTURAL EQUIPMENT DEALERSHIP AGREEMENTS — REPURCHASES REQUIRED OF SUPPLIER

*H.F. 469*

**AN ACT** requiring agricultural equipment suppliers to repurchase certain items upon termination of an agricultural equipment dealership agreement.

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

Section 1. Section 322F.3, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If a dealership agreement is terminated by cancellation or nonrenewal, the supplier must repurchase equipment and parts in the dealer's inventory and must repurchase special tools and computer hardware or software required for the dealership. The repurchase is subject to the following conditions:

Sec. 2. Section 322F.3, subsection 1, Code 2001, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. The supplier shall pay to the dealer or credit the dealer's account with the amortized value of any specific computer hardware or software that the supplier

required the dealer to purchase within the five years immediately preceding notification by either party of an intent to terminate the contract.

NEW PARAGRAPH. d. The supplier shall pay to the dealer or credit the dealer's account with the following amounts for special repair tools that were unique to the supplier's product line and that are in complete and resalable condition:

(1) Seventy-five percent of the net cost of special repair tools purchased within the three years immediately preceding notification by either party of an intent to terminate the contract.

(2) Fifty percent of the net cost of special repair tools purchased within the four to six years immediately preceding notification by either party of an intent to terminate the contract.

NEW PARAGRAPH. e. The supplier shall only be required to repurchase the items described in paragraphs "c" and "d" if the items are free and clear of all claims, liens, and encumbrances, to the satisfaction of the supplier.

Approved April 17, 2001

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## CHAPTER 43

### DOMESTIC ABUSE PROTECTIVE ORDERS — PLAINTIFF'S FEES AND COSTS

S.F. 347

**AN ACT** eliminating court costs and filing and service fees for plaintiffs seeking relief from domestic abuse.

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

Section 1. Section 236.3, unnumbered paragraph 2, Code 2001, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The filing fee and court costs for an order for protection under this chapter shall be waived for the plaintiff. The clerk of court, the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process without charge to the petitioner. When an order for protection is entered by the court, the court may direct the defendant to pay to the clerk of court the plaintiff's filing fees and reasonable costs of service of process if the court determines the defendant has the ability to pay the plaintiff's fees and costs.

Sec. 2. Section 236.19, subsection 5, Code 2001, is amended to read as follows:

5. Filing and service costs in connection with foreign protective orders ~~may be~~ are waived ~~or deferred~~ as provided in section 236.3.

Approved April 18, 2001

## CHAPTER 44

### PUBLIC RECORDS AND DOCUMENTS

S.F. 372

**AN ACT** relating to the powers and duties of the county recorder relating to the recording and keeping of documents.

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

Section 1. Section 6B.35, subsection 5, Code 2001, is amended to read as follows:

5. A written statement by the sheriff of all money received in payment of damages, from whom received, to whom paid, and the amount paid to each claimant and reference to the application for condemnation by ~~book and page~~ document reference or instrument number and the date the application was filed with the county recorder.

Sec. 2. Section 22.3, Code 2001, is amended to read as follows:

#### 22.3 SUPERVISION.

Such examination and copying shall be done under the supervision of the lawful custodian of the records or the custodian's authorized ~~deputy designee~~. The lawful custodian may adopt and enforce reasonable rules regarding ~~such the~~ work and the protection of the records against damage or disorganization. The lawful custodian shall provide a suitable place for ~~such the~~ work, but if it is impracticable to do ~~such the~~ work in the office of the lawful custodian, the person desiring to examine or copy shall pay any necessary expenses of providing a place for ~~such the~~ work. All expenses of ~~such the~~ work shall be paid by the person desiring to examine or copy. The lawful custodian may charge a reasonable fee for the services of the lawful custodian or the custodian's authorized ~~deputy designee~~ in supervising the records during ~~such the~~ work. If copy equipment is available at the office of the lawful custodian of any public records, the lawful custodian shall provide any person a reasonable number of copies of any public record in the custody of the office upon the payment of a fee. The fee for the copying service as determined by the lawful custodian shall not exceed the cost of providing the service.

Sec. 3. Section 96.14, subsection 3, unnumbered paragraphs 3 and 4, Code 2001, are amended to read as follows:

The county recorder of each county shall prepare and keep in the recorder's office ~~a book to be known as "index of unemployment contribution liens", so ruled as an index~~ to show in ~~appropriate columns~~ the following data, under the names of employers, arranged alphabetically:

The recorder shall endorse on each notice of lien the day, hour, and minute when received and shall ~~forthwith~~ index ~~said the~~ notice in ~~said the~~ index ~~book~~ and shall ~~forthwith~~ record ~~said the~~ lien in the manner provided for recording real estate mortgages, and the ~~said~~ lien shall be effective from the time of the indexing ~~thereof of the lien~~.

Sec. 4. Section 331.602, subsection 1, paragraph d, Code 2001, is amended to read as follows:

d. An instrument conveying an interest in real property, other than a mortgage, a mortgage release, or an assignment, shall contain the statement "Address tax statement:" which shall be filled out with ~~a the~~ name of the taxpayer and a complete mailing address. Each instrument conveying an interest in real property shall contain this statement unless otherwise authorized by the county recorder.

Sec. 5. Section 331.602, subsections 2 and 23, Code 2001, are amended to read as follows:

2. Rerecord an instrument without fee upon presentation of the original instrument by the owner if an error is made in recording the instrument. The recorder shall also note ~~in the~~

~~margin of~~ on the new record a reference to the original record and ~~in the margin of~~ on the original record a reference to the ~~book and page of~~ the new record.

23. Forward to the director of revenue and finance a ~~certified~~ copy of any deed, bill of sale or other transfer which shows that it is made or intended to take effect at or after the death of the person executing the instrument as provided in section 450.81.

Sec. 6. Section 331.603, subsection 3, Code 2001, is amended to read as follows:

3. The recorder may reproduce in miniature on a durable medium any instrument to be recorded. When a recorded instrument involves a release or assignment, the separate instrument filed acknowledging the release or assignment shall be reproduced ~~in miniature~~. In lieu of marginal entries, the recorder shall make ~~endorsements in red ink~~ notations on both the index and the ~~cross index to the miniature instruments where the instruments were originally indexed~~ record of the original instrument. When an official record is produced in miniature, a security copy shall be reproduced at the same time and kept outside of the courthouse.

Sec. 7. Section 331.605A, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The recorder shall also collect a fee of one dollar for each recorded transaction for which a fee is paid pursuant to section 331.604 to be used exclusively for the purpose of preserving and maintaining public records. The treasurer, on behalf of the recorder, shall establish and maintain an interest-bearing account into which all moneys collected pursuant to this section shall be deposited. The recorder shall use the moneys deposited in the account to produce and maintain public records that meet archival standards, and to enhance the technological storage, retrieval, and transmission capabilities related to archival quality records. The recorder may cooperate with other entities, boards, and agencies to establish methods of records management, and participate in other joint ventures which further the purposes of this paragraph.

Sec. 8. Section 331.606, subsection 2, Code 2001, is amended to read as follows:

2. The recorder shall also note in the index ~~book~~ the exact time of the filing of each instrument.

Sec. 9. Section 331.607, subsections 1, 7, 8, 9, and 11, Code 2001, are amended to read as follows:

1. A record ~~book~~ for military discharges as provided in section 331.608.

7. Index and ~~record books~~ records for instruments affecting real estate as provided under chapter 558.

8. ~~Homestead and index books~~ An index and record of homesteads as provided in section 561.4.

9. A claimant's ~~book in which index and record~~ for the notices of title interests in land ~~are indexed~~ as provided in section 614.35.

11. Other ~~books~~ indexes and records as provided by law.

Sec. 10. Section 331.608, subsection 1, Code 2001, is amended to read as follows:

1. The recorder shall maintain a ~~special book~~ record in which, upon request, the discharge of a veteran shall be recorded without charge. ~~The discharge book shall be a uniform type, kind, and form approved by the commission of veterans affairs.~~

Sec. 11. Section 331.609, subsection 3, paragraph c, Code 2001, is amended to read as follows:

c. If a refiled notice of federal lien referred to in paragraph "a" or any of the certificates or notices referred to in paragraph "b" is presented for recording with a recorder, the recorder shall ~~permanently attach the refiled notice or the certificate to the original notice of lien and shall~~ enter the refiled notice or the certificate with the date of recording in an alphabetical index and make a notation on the original record of a reference to the refiled notice or certificate.

Sec. 12. Section 354.1, subsection 3, Code 2001, is amended to read as follows:

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

Sec. 13. Section 354.5, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. The ~~book and page~~ document reference number of the recorded plat of survey.

Sec. 14. Section 354.5, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. The ~~book and page~~ document reference number of the recorded acquisition plat.

Sec. 15. Section 354.24, Code 2001, is amended to read as follows:

354.24 ERRORS ON RECORDED PLATS.

If an error or omission in the data shown on a recorded plat is detected by subsequent examinations or revealed by retracing the lines shown on the plat, the original surveyor or two surveyors confirming the error through independent surveys shall record an affidavit confirming that the error or omission was made. The affidavit shall describe the nature and extent of the error or omission and also describe the corrections or additions to be made to the plat and note ~~the book and page~~ a document reference number of the recorded plat. The recorder shall ~~write across that part~~ note on the record of the plat ~~so corrected~~ the word "corrected", and note the ~~book and page~~ document reference number of the recorded affidavit. A copy of the recorded affidavit shall be filed with the auditor and assessor. The affidavit shall raise a presumption from the date of recording that the purported facts stated in the affidavit are true, and after the lapse of three years from the date of recording the presumption shall be conclusive.

Sec. 16. Section 354.26, Code 2001, is amended to read as follows:

354.26 CORRECTIONS OR CHANGES TO PLATS.

A vacation, correction, or replatting as provided for in this chapter, shall be recorded and an exact copy shall be filed with the auditor and assessor. If a governing body changes the addresses or street names shown on an official plat, notice of the change shall note the name or other designation of each official plat affected and shall be filed with the recorder, auditor, and assessor. The recorder shall note the vacation, correction, or replatting on the ~~margin~~ index and record of the official plat or upon an attachment to the official plat for that purpose. The auditor shall make the proper changes on the plats required to be kept by the auditor.

Sec. 17. Section 380.11, Code 2001, is amended to read as follows:

380.11 CERTAIN MEASURES RECORDED.

Immediately after the effective date of a measure establishing any zoning district, building lines or fire limits, the city clerk shall certify the measure and a plat showing the district, lines or limits, to the recorder of any county which contains part of the city. The county recorder shall index and record the measure and plat ~~in the miscellaneous record or other book provided for special records, and shall index the record.~~ The city shall pay the recording fee.

Sec. 18. Section 422.26, unnumbered paragraphs 4 and 5, Code 2001, are amended to read as follows:

The county recorder of each county shall ~~prepare and keep in the recorder's office a book to be known as "index of income tax liens", so ruled as~~ an index and record to show in

~~appropriate columns~~ the following data, under the names of taxpayers, arranged alphabetically:

The recorder shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall ~~forthwith~~ index said the notice in said the index book and shall ~~forthwith~~ record said the lien in the manner provided for recording real estate mortgages, and the ~~said~~ lien shall be effective from the time of the indexing ~~thereof of the lien~~.

Sec. 19. Section 428A.5, Code 2001, is amended to read as follows:

428A.5 EVIDENCE OF PAYMENT.

The amount of tax imposed by this chapter shall be paid to the county recorder in the county where the real property is located and the amount received and the initials of the county recorder shall appear on the face of the document or instrument. ~~The department of revenue and finance shall provide each county recorder with a device to be used by the recorder to evidence this information on the document or instrument. The method of documentation of a transfer tax shall be approved by the department of revenue and finance.~~

Sec. 20. Section 437A.11, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The county recorder of each county shall prepare and keep in the recorder's office ~~a book to be known as the index of replacement tax liens, so ruled as an index and record~~ to show ~~in appropriate columns~~ under the names of taxpayers arranged alphabetically, all of the following:

Sec. 21. Section 437A.22, unnumbered paragraph 3, Code 2001, is amended to read as follows:

The county recorder of each county shall prepare and keep in the recorder's office ~~a book to be known as the index of statewide property tax liens, so ruled as an index and record~~ to show ~~in appropriate columns~~ under the names of taxpayers arranged alphabetically, all of the following:

Sec. 22. Section 558.45, Code 2001, is amended to read as follows:

558.45 NOTATION OF ASSIGNMENT OR RELEASE ON INDEX.

Where any mortgage, contract, or other instrument constituting an encumbrance upon real estate shall be assigned or released by a separate instrument it shall be the duty of the recorder to make a notation ~~in red ink on the index and cross index~~ where ~~such the~~ instrument was originally indexed, indicating the nature of such assignment or release and ~~the book and page a document reference number of the record~~ where the same is recorded.

Sec. 23. Section 558.49, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The recorder must keep index ~~books, the pages of which are so divided as records~~ to show ~~in parallel columns~~ the following:

Sec. 24. Section 558.49, subsection 6, Code 2001, is amended to read as follows:

6. The ~~book and page~~ document reference number where the record ~~thereof of the instrument~~ may be found.

Sec. 25. Section 558.52, Code 2001, is amended to read as follows:

558.52 ALPHABETICAL ARRANGEMENT.

The entries ~~in such book~~ shall show the names of the respective grantors and grantees, arranged in alphabetical order. When ~~such the~~ instrument is executed by a personal representative, guardian, referee, commissioner, receiver, sheriff, or other person acting in a representative capacity, the recorder shall enter upon the index ~~book~~ the name and representative capacity of each person executing the instrument and the owner of the property if disclosed ~~therein~~ in the instrument.

Sec. 26. Section 558.55, Code 2001, is amended to read as follows:

558.55 FILING AND INDEXING — CONSTRUCTIVE NOTICE.

The recorder must endorse upon every instrument properly filed for record in the recorder's office, the day, hour, and minute of ~~such the~~ filing, and ~~forthwith~~ enter in the index ~~book~~ the entries required to be ~~made therein entered~~, except the ~~book and page~~ document reference number where the complete record will appear, and ~~such the~~ filing and indexing shall constitute constructive notice to all persons of the rights of the grantees conferred by ~~such the~~ instruments.

Sec. 27. Section 558.59, Code 2001, is amended to read as follows:

558.59 FINAL RECORD.

Every ~~such~~ instrument shall be recorded, as soon as practicable, ~~in a suitable book to be kept by the recorder for that purpose~~; after which the recorder shall complete the entries ~~aforsaid so as~~ to show the ~~book and page~~ document reference number where the record is to be found.

Sec. 28. Section 566.35, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 29. Section 639.53, Code 2001, is amended to read as follows:

639.53 DESCRIPTION OF REAL ESTATE.

Where real property is attached, the sheriff shall describe it with certainty to identify it, and, where the sheriff can do so, by a reference to the ~~book and page~~ document reference number where the deed under which the defendant holds is recorded.

Sec. 30. Section 655A.3, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. Reasonably identify by a document reference number the mortgage and accurately describe the real estate covered.

Sec. 31. Section 655A.6, Code 2001, is amended to read as follows:

655A.6 REJECTION OF NOTICE.

If either the mortgagor, or successor in interest of record including a contract purchaser, within thirty days of service of the notice pursuant to section 655A.3, files with the recorder of the county where the mortgaged property is located, a rejection of the notice reasonably identifying by a document reference number the notice which is rejected together with proofs of service required under section 655A.4 that the rejection has been served on the mortgagee, the notice served upon the mortgagor pursuant to section 655A.3 is of no force or effect.

Sec. 32. Section 656.2, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. Reasonably identify the contract by a document reference number and accurately describe the real estate covered.

Sec. 33. Sections 558.50, 558.51, 558.53, and 558.54, Code 2001, are repealed.

Approved April 18, 2001



**CHAPTER 45****COUNTY ADMINISTRATIVE PROCEDURES, FILING  
REQUIREMENTS, AND RELATED COSTS**

S.F. 453

**AN ACT** relating to the administrative procedures of certain county officers by authorizing the issuance of checks, providing for the cancellation of warrants and checks, the disposal of tax lists, and the receipt of electronic payments, specifying tax sale costs and the mailing address for changes of titles and deeds, providing for other properly related matters, and providing an effective date.

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

Section 1. Section 331.303, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. A "warrant book" which records each warrant drawn in the order of issuance by number, date, amount, and name of drawee, and refers to the order in the minute book authorizing its drawing. The board may authorize the auditor to issue checks in lieu of warrants. If the issuance of checks is authorized, the word "check" shall be substituted for the word "warrant" in those sections of this chapter and chapters 6B.11,<sup>1</sup> 35B, 336, 349, 350, 427B, and 468 in which the issuance of a check is authorized in lieu of a warrant.

Sec. 2. Section 331.402, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. dd. Authorize the auditor to issue checks in lieu of warrants. The checks shall be charged directly against a bank account controlled by the county treasurer.

Sec. 3. Section 331.552, subsection 2, Code 2001, is amended to read as follows:

2. Disburse money owed or payable by the county on warrants or checks drawn and signed by the auditor and sealed with the official county seal.

Sec. 4. Section 331.554, subsections 6 and 7, Code 2001, are amended to read as follows:

6. The amount of a check, other than a warrant, outstanding for more than ~~two years~~ one year shall be ~~paid to the treasurer canceled, removed from the list of outstanding checks, deposited to the account on which the check was written,~~ and credited as unclaimed fees and trusts. The treasurer shall ~~provide~~ maintain a list of the checks ~~to the auditor who shall maintain a record of the unclaimed fees and trusts for one year after cancellation.~~ A person may claim ~~an unclaimed fee or trust within five years after the money is credited~~ the amount of the canceled treasurer's check for a period of one year after cancellation upon proper proof of ownership by filing a claim with the county auditor.

7. A warrant outstanding for more than ~~two years~~ one year shall be canceled by the auditor and the amount of the warrant shall be credited to the fund upon which the warrant was drawn. A person may file a claim with the auditor for the amount of the canceled warrant within ~~five years~~ one year of the date of the cancellation, and upon showing of proper proof that the claim is true and unpaid, the auditor shall issue a warrant drawn upon the fund from which the original canceled warrant was drawn. This subsection does not apply to warrants issued upon drainage or levee district funds or any fund upon which the county treasurer has issued a warrant order or stamped a warrant for want of funds.

Sec. 5. Section 331.559, subsection 20, Code 2001, is amended to read as follows:

20. Carry out duties relating to the preparation and correction of the tax list as provided in chapter 443. After ten years from the date of receipt, the county treasurer shall dispose of the tax list delivered to the county treasurer pursuant to chapter 443.

<sup>1</sup> See chapter 176, §67 herein

Sec. 6. Section 331.602, subsection 1, paragraph d, Code 2001, is amended to read as follows:

d. ~~An~~ A certificate of change of title or an instrument conveying an interest in real property, other than a mortgage, a mortgage release, or an assignment, shall contain the statement "Address tax statement:" which shall be filled out with a name and complete mailing address. Each instrument conveying an interest in real property shall contain this statement unless otherwise authorized by the county recorder.

Sec. 7. Section 445.37, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. To avoid interest on delinquent taxes, an electronic payment must be received in the treasurer's account on the first business day of the delinquency month.

Sec. 8. Section 447.11, Code 2001, is amended to read as follows:

447.11 AGENT OF NONRESIDENT.

A nonresident may in writing appoint a resident of the county in which the parcel is situated as agent, and file the appointment with the county treasurer of the county, who shall make note of the appointment in the county system, after which ~~personal~~ service of notice by certified and regular mail shall be made upon the agent.

Sec. 9. Section 447.13, Code 2001, is amended to read as follows:

447.13 COST — FEE — REPORT.

~~The cost of a record search and the cost of serving the notice, including the cost of mailing certified mail notices and the cost of publication under section 447.10, if publication is required, shall be added to the amount necessary to redeem. The county treasurer shall file the proof of service and statement of costs and record these costs against the parcel. The certificate holder or the holder's agent shall report in writing to the treasurer the amount of authorized costs incurred, and the treasurer shall file the statement. Costs not filed with the treasurer before a redemption is complete shall not be collected by the treasurer and may be recovered through a court action against the parcel owner by the certificate holder. If the parcel is held by a city or county, a city or county agency, or the Iowa finance authority, for use in an Iowa homesteading project, whether or not the parcel is the subject of a conditional conveyance granted under the project, the costs incurred for repairs and rehabilitation work required and undertaken in order to make the parcel meet applicable building or housing code standards shall be added to the amount necessary to redeem.~~

For tax sale certificates of purchase held by a county, the cost of a record search and the cost of serving the notice, including the cost of mailing certified mail notices and the cost of publication under section 447.10, if publication is required, shall be added to the amount necessary to redeem.

Sec. 10. Section 633.480, Code 2001, is amended to read as follows:

633.480 CERTIFICATE TO COUNTY RECORDER FOR TAX PURPOSES WITH ADMINISTRATION.

After discharge as provided in section 633.479, the clerk shall certify under chapter 558 relative to each parcel of real estate described in the final report of the personal representative which has not been sold by the personal representative, and deliver the certificate to the county recorder of the county in which the real estate is situated. The certificate shall include the name and complete mailing address, as shown on the final report, of the individual or entity in whose name each parcel of real estate is to be taxed. The county recorder shall deliver the certificate to the county auditor as provided in section 558.58.

Sec. 11. EFFECTIVE DATE. Section 9 of this Act, being deemed of immediate importance, takes effect upon enactment.

**CHAPTER 46****CHILD ABUSE AND PROTECTION — DRUG MANUFACTURE  
OR POSSESSION IN CHILD'S PRESENCE***H.F. 178*

**AN ACT** applying child in need of assistance and child abuse provisions to a child whose parent or guardian or the person responsible for the child's care has manufactured or possessed a dangerous substance in a child's presence.

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

Section 1. Section 232.2, subsection 6, Code 2001, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** p. Whose parent, guardian, or custodian does any of the following: unlawfully manufactures a dangerous substance in the presence of a child, knowingly allows such manufacture by another person in the presence of a child, or in the presence of a child possesses a product containing ephedrine, its salts, optical isomers, salts of optical isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, with the intent to use the product as a precursor or an intermediary to a dangerous substance.

(1) For the purposes of this paragraph "p", "in the presence of a child" means the physical presence of a child during the manufacture or possession, the manufacture or possession occurred in a child's home, on the premises, or in a motor vehicle located on the premises, or the manufacture or possession occurred under other circumstances in which a reasonably prudent person would know that the manufacture or possession may be seen, smelled, or heard by a child.

(2) For the purposes of this paragraph "p", "dangerous substance" means any of the following:

- (a) Amphetamine, its salts, isomers, or salts of its isomers.
- (b) Methamphetamine, its salts, isomers, or salts of its isomers.
- (c) A chemical or combination of chemicals that poses a reasonable risk of causing an explosion, fire, or other danger to the life or health of persons who are in the vicinity while the chemical or combination of chemicals is used or is intended to be used in any of the following:
  - (i) The process of manufacturing an illegal or controlled substance.
  - (ii) As a precursor in the manufacturing of an illegal or controlled substance.
  - (iii) As an intermediary in the manufacturing of an illegal or controlled substance.

Sec. 2. Section 232.68, subsection 2, Code 2001, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** g. The person responsible for the care of a child has, in the presence of the child, as defined in section 232.2, subsection 6, paragraph "p", manufactured a dangerous substance, as defined in section 232.2, subsection 6, paragraph "p", or in the presence of the child possesses a product containing ephedrine, its salts, optical isomers, salts of optical isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers, with the intent to use the product as a precursor or an intermediary to a dangerous substance.

Approved April 18, 2001

**CHAPTER 47****SCHOOL BOARD DUTIES — OFFICERS — ANNUAL SETTLEMENTS***H.F. 293*

**AN ACT** relating to the duties of the board of directors of a school district prior to a regular school election.

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

Section 1. Section 279.3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~At a regular or special meeting of the board held in July or August prior to or on August 15~~ The board shall appoint a secretary who shall not be a teacher employed by the board but may be another employee of the board. The board shall also appoint a treasurer who may be another employee of the board. However, the board may appoint one person to serve as the secretary and the treasurer.

Sec. 2. Section 279.33, Code 2001, is amended to read as follows:

279.33 ANNUAL SETTLEMENTS.

~~At a regular or special meeting held not later than August 15 on or after August 31 and prior to the organizational meeting held after the regular school election,~~ the board of each school corporation shall meet, examine the books of and settle with the secretary and treasurer for the year ending on the preceding June 30, and transact other business as necessary. The treasurer at the time of settlement shall furnish the board with a sworn statement from each depository showing the balance then on deposit in the depository. If the secretary or treasurer fail to make proper reports for the settlement, the board shall take action to obtain the balance information.

Approved April 18, 2001

**CHAPTER 48****INSTRUCTIONAL SUPPORT PROGRAM PARTICIPATION —  
WEST BEND-MALLARD SCHOOL DISTRICT***H.F. 309*

**AN ACT** to legalize participation in an instructional support program by the West Bend-Mallard Community School District and providing an effective and retroactive applicability date.

WHEREAS, on September 11, 1990, the registered voters of the Mallard Community School District approved the district's participation in an instructional support program for a period not exceeding ten years beginning on July 1, 1991, and ending on June 30, 2001, pursuant to section 257.18; and

WHEREAS, on January 18, 1994, the West Bend Community School District Board adopted a resolution to participate in an instructional support program for a period not exceeding five years beginning on July 1, 1994, and ending on June 30, 1999, pursuant to section 257.18; and

WHEREAS, on July 1, 1995, the Mallard Community School District and the West Bend

Community School District were reorganized as the West Bend-Mallard Community School District, pursuant to chapter 275; and

WHEREAS, section 257.18 provides that if school districts involved in a school reorganization under chapter 275 have approved an instructional support program, and registered voters have not voted upon the question of participation in the program in the reorganized district, the instructional support program in effect for the reorganized school district shall be the instructional support program that has been approved for the least amount and the shortest time in any of the districts; and

WHEREAS, funding for the instructional support program continued after July 1, 1995, the effective date of the reorganization of the West Bend-Mallard Community School District, and moneys were paid to the reorganized school district as instructional support state aid and were received from local funding using a combination of an instructional support property tax and an instructional support income surtax as provided in section 257.19; and

WHEREAS, the West Bend-Mallard Community School District has continued to participate in the instructional support program after June 30, 1999, the date when the instructional support program originally approved by the West Bend Community School District Board was no longer effective; and

WHEREAS, on September 12, 2000, the registered voters of the West Bend-Mallard Community School District approved the district's participation in the instructional support program in compliance with section 257.18 commencing July 1, 2001; NOW THEREFORE,

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

Section 1. All acts and proceedings relating to the instructional support program for the West Bend-Mallard Community School District, due to the failure to approve an instructional support program as provided in section 257.18 beginning on July 1, 1999, and ending on June 30, 2001, are legalized, validated, and confirmed.

For purposes of this section, an act or proceeding includes but is not limited to all of the following:

1. The failure of the district's board of directors to adopt a resolution to participate in an instructional support program or the failure of registered voters in the district to approve an instructional support program as provided in section 257.18.

2. The assessment, imposition, collection, receipt, deposit, and expenditure of state and local moneys used to fund the instructional support program as provided in chapter 257.

Sec. 2. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1999.

Approved April 18, 2001

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## CHAPTER 49

### REAL ESTATE APPRAISER REGULATION

#### H.F. 400

**AN ACT** relating to the regulation of real estate appraisers.

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

Section 1. Section 543D.2, subsection 4, Code 2001, is amended to read as follows:

4. "Appraisal report" means any ~~written~~ communication of an appraisal.

Sec. 2. Section 543D.14, Code 2001, is amended to read as follows:

543D.14 CERTIFICATE.

A certificate issued under this chapter shall bear the ~~signatures~~ signature or facsimile ~~signatures~~ signature of the ~~member or~~ members of the board as designated by the board and a certificate number assigned by the board.

Approved April 18, 2001

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## CHAPTER 50

### ESTABLISHMENT OF CITY ELECTION PRECINCTS

H.F. 481

**AN ACT** relating to the establishment of city precincts and providing an effective date.

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

Section 1. Section 49.5, Code 2001, is amended to read as follows:

49.5 CITY PRECINCTS.

The council of a city where establishment of more than one precinct is necessary or deemed advisable shall at the time required by law, divide the city into the number of election precincts as will best serve the convenience of the voters while promoting electoral efficiency. As used in this section, the term “the convenience of the voters” refers to, but is not necessarily limited to, the use of precinct boundaries which can be readily described to and identified by voters and for which there is ease of access by voters to their respective precinct polling places by reasonably direct routes of travel. As used in this section, the term “promoting electoral efficiency” means reducing the cost of staffing election precincts by requiring cities to avoid creating more precincts than is reasonably necessary to provide voters access to voting.

The precinct boundaries shall conform to section 49.3 and shall be described in an ordinance adopted by the council within the time required by section 49.7. Before final adoption of any change in election precinct boundaries pursuant to this section or section 49.6, the council shall permit the commissioner not less than seven and not more than ten days time to offer written comments to the council on the proposed reprecincting. If the commissioner recommends changes in the proposed reprecincting which the commissioner concludes could better serve the convenience of the voters or could promote electoral efficiency, including lowering election costs, the council shall, if no changes to the reprecincting are made, include reasons in the ordinance for not adopting the proposed changes of the commissioner. A public hearing shall be held before final adoption of the ordinance. Notice of the date, time, and place of the hearing shall be given as provided in chapter 21.

Sec. 2. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 18, 2001

**CHAPTER 51****UNDERGROUND STORAGE TANK REGISTRATION AND  
REPORTING — CORRECTIVE ACTION BENEFITS***H.F. 636*

**AN ACT** relating to the reporting of underground storage tanks and to benefits provided through funds administered by the Iowa comprehensive petroleum underground storage tank fund board.

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

Section 1. Section 455B.473, subsections 7, 8, and 9, Code 2001, are amended to read as follows:

~~7. A person who deposits a regulated substance in an underground storage tank shall notify the owner or operator in writing of their notification requirements pursuant to this section.~~

8. A person who sells, installs, modifies, or repairs a tank used or intended to be used as an underground storage tank shall notify the purchaser and the owner or operator of the tank in writing of the owner's notification requirements pursuant to this section including the prohibition on depositing a regulated substance into tanks which have not been registered and issued tags by the department. A person who installs an underground storage tank and the owner or operator of the underground storage tank shall, prior to installing an underground storage tank, notify the department in writing regarding the intent to install a tank.

9. It shall be unlawful to deposit or accept a regulated substance in an underground storage tank which has not been registered and issued permanent and annual tank management fee renewal tags pursuant to subsections 1 through 6. It shall also be unlawful to deposit a regulated substance in an underground storage tank after receiving notice from the department that the underground storage tank is not covered by an approved form of financial responsibility in accordance with section 455B.474, subsection 2.

The department shall furnish the owner or operator of an underground storage tank with a registration tag for each underground storage tank registered with the department. The owner or operator shall affix the tag to the fill pipe of each registered underground storage tank. ~~A person who conveys or deposits a regulated substance shall inspect the underground storage tank to determine the existence or absence of the registration tag. If a registration tag is not affixed to the underground storage tank fill pipe, the person conveying or depositing the regulated substance may deposit the regulated substance in the unregistered tank provided that the deposit is allowed only in the single instance, that the person reports the unregistered tank to the department of natural resources, and that the person provides the owner or operator with an underground storage tank registration form and informs the owner or operator of the underground storage tank registration requirements. The owner or operator is allowed fifteen days following the report to the department of the owner's or operator's unregistered tank to comply with the registration requirements. If an owner or operator fails to register or obtain annual renewal tags for the reported underground storage tank during the fifteen-day period, the owner or operator shall pay a an additional fee of twenty five two hundred fifty dollars upon registration of the tank. A fee imposed pursuant to this subsection shall not preclude the department from assessing an administrative penalty pursuant to section 455B.476.~~

Sec. 2. Section 455B.473, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 10. The department may deny issuance of a registration or annual tank management fee renewal tag for failure of the owner or operator to provide proof the underground storage tank is covered by an approved form of financial responsibility as provided in section 455B.474, subsection 2.

Sec. 3. Section 455G.21, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. The innocent landowners fund shall be established as a separate fund in the state treasury under the control of the board. The innocent landowners fund shall include any moneys recovered pursuant to cost recovery enforcement under section 455G.13. Notwithstanding section 455G.1, subsection 2, benefits for the costs of corrective action ~~shall~~ may be provided to the owner of a petroleum-contaminated property, or an owner or operator of an underground storage tank located on the property, who is not otherwise eligible to receive benefits under section 455G.9 due to the date on which the release causing the contamination was reported or the date the claim was filed. An owner of a petroleum-contaminated property, or an owner or operator of an underground storage tank located on the property, shall be eligible for payment of ~~total~~ corrective action costs subject to copayment requirements under section 455G.9, subsection 4. The board may adopt rules conditioning receipt of benefits under this paragraph to those petroleum-contaminated properties which present a higher degree of risk to the public health and safety or the environment and may adopt rules providing for denial of benefits under this paragraph to a person who did not make a good faith attempt to comply with the provisions of this chapter. This paragraph does not confer a legal right to an owner of petroleum-contaminated property, or an owner or operator of an underground storage tank located on the property, for receipt of benefits under this paragraph.

Sec. 4. Section 455G.2, subsection 17, Code 2001, is amended to read as follows:

17. "Precorrective action value" means the ~~assessed value of the tank site immediately prior to the discovery of a petroleum release~~ purchase price of the tank site paid by the owner after October 26, 1990.

Approved April 18, 2001

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## CHAPTER 52

### BIODIESEL FUEL REVOLVING FUND

S.F. 465

**AN ACT** creating a fund for the use of the state department of transportation to purchase soydiesel fuel for use in its vehicles and providing an effective date.

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

Section 1. NEW SECTION. 307.20 BIODIESEL FUEL REVOLVING FUND.

1. A biodiesel fuel revolving fund is created in the state treasury. The biodiesel fuel revolving fund shall be administered by the department and shall consist of moneys received from the sale of EPA credits banked by the department on the effective date of this Act, moneys appropriated by the general assembly, and any other moneys obtained or accepted by the department for deposit in the fund. Moneys in the fund are appropriated to and shall be used by the department for the purchase of biodiesel fuel for use in department vehicles. The department shall submit an annual report not later than January 31 to the members of the general assembly and the legislative fiscal bureau, of the expenditures made from the fund during the preceding fiscal year. Section 8.33 does not apply to any moneys in the fund and, notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the fund shall be credited to the fund.



2. A department motor vehicle operating on biodiesel fuel shall be affixed with a brightly visible sticker that notifies the traveling public that the motor vehicle uses biodiesel fuel.

3. For purposes of this section the following definitions apply:

a. "Biodiesel fuel" means soydiesel fuel as defined in section 159A.2.

b. "EPAAct credit" means a credit issued pursuant to the federal Energy Policy Act (EPAAct), 42 U.S.C. § 13201 et seq.

Sec. 2. 2000 Iowa Acts, chapter 1018, sections 2 and 3, are repealed.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 19, 2001

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## CHAPTER 53

### COMPENSATION OF SCHOOL BOARD MEMBERS

H.F. 294

AN ACT relating to contracts and compensation that benefit a member of the board of directors of a school district.

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

Section 1. Section 277.27, Code 2001, is amended to read as follows:

277.27 QUALIFICATION.

A member of the board shall, at the time of election or appointment, be an eligible elector of the corporation or subdistrict. Notwithstanding any contrary provision of the Code, a member of the board of directors of a school district shall not receive compensation directly from the school board unless the compensation is for part-time or temporary employment and does not exceed the limitation set forth in section 279.7A.

Sec. 2. Section 279.7A, Code 2001, is amended to read as follows:

279.7A INTEREST IN PUBLIC CONTRACTS PROHIBITED — EXCEPTION.

A member of the board of directors of a school corporation shall not have an interest, direct or indirect, in a contract for the purchase of goods, including materials and profits, and the performance of services for the director's school corporation. A contract entered into in violation of this section is void. This section does not apply to contracts for the purchase of goods or services which benefit a director, or to compensation for part-time or temporary employment which benefits a director, if the benefit to the director does not exceed two thousand five hundred dollars in a fiscal year, and contracts made by a school board, upon competitive bid in writing, publicly invited and opened.

Approved April 19, 2001

**CHAPTER 54**  
**RURAL FIRE PROTECTION**  
*H.F. 301*

**AN ACT** establishing a rural fire protection program and limiting the liability of rural water districts and associations in connection with the provision of water for fire protection.

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

Section 1. NEW SECTION. 357A.22A RURAL FIRE PROTECTION PROGRAM — LIABILITY.

A rural water district or rural water association incorporated under this chapter or chapter 504A shall establish a rural fire protection program which shall include, but is not limited to, providing access to designated soft-hose fill stations, providing annually or more often if necessary updated maps of soft-hose fill stations to all fire departments within the rural water service area, and sponsoring informational meetings for all fire departments and interested parties within the rural water service area for the purpose of reviewing locations of facilities, operational procedures, communication procedures and facilities, and procedures designed to coordinate efforts to enhance rural fire protection.

A rural water district or rural water association incorporated under this chapter or chapter 504A which provides water service to cities, benefited fire districts, or townships shall not be liable for a claim against the district or association for failure to provide or maintain fire hydrants, facilities or an adequate supply of water or water pressure for fire protection purposes if the purpose of the hydrants, facilities, or water used is not for fire protection. Not later than July 1, 2006, the legislative council shall provide for a review of the liability exemption or limitation provided for rural water districts or rural water associations under this paragraph and assess its effect on the provision of fire protection in areas served by the rural water districts or rural water associations.

Approved April 19, 2001

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**CHAPTER 55**  
**PRACTICE OF ACCOUNTING — LICENSURE**  
*H.F. 451*

**AN ACT** regulating the practice of accounting, establishing fees, providing penalties, and providing an effective date.

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

Section 1. NEW SECTION. 542D.1 TITLE.

This chapter shall be known and may be cited as the "Iowa Accountancy Act of 2001".

Sec. 2. NEW SECTION. 542D.2 LEGISLATIVE INTENT.

It is the policy of this state, and the purpose of this chapter, to promote the reliability of information that is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial, noncommercial, and governmental enterprises. The reliance of the public in general and of the business community in

particular on sound financial reporting imposes on persons engaged in such practice certain obligations both to their clients and to the public. These obligations, which this chapter is intended to enforce, include the obligation to maintain independence in thought and action, to strive continuously to improve one's professional skills, to observe where applicable generally accepted accounting principles and generally accepted auditing standards, to promote sound and informative financial reporting, to hold the affairs of clients in confidence, and to maintain high standards of personal conduct in all matters affecting one's fitness to practice public accountancy. The public interest requires that persons professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information shall have demonstrated their qualifications to do so, and that persons who have not demonstrated and maintained such qualifications not be permitted to represent themselves as having such special competence or to offer such assurance; that the conduct of persons licensed as having special competence in accountancy be regulated in all aspects of their professional work; that a public authority competent to prescribe and assess the qualifications and to regulate the conduct of licensees be established; and that the use of titles that have a capacity or tendency to deceive the public as to the status or competence of the persons using such titles be prohibited.

Sec. 3. NEW SECTION. 542D.3 DEFINITIONS.

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

1. "Attest" or "attest service" means providing any of the following services:
  - a. An audit or other engagement to be performed in accordance with the statements on auditing standards.
  - b. A review of a financial statement to be performed in accordance with the statements on standards for accounting and review services.
  - c. An examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements. For purposes of this subsection, the statements on standards for attestation engagements means those standards adopted by the board, by rule, by reference to the standards developed for general application by the American institute of certified public accountants, or other recognized national accountancy organization.
2. "Board" means the Iowa accountancy examining board established under section 542D.4 or its predecessor under prior law.
3. "Certificate" means a certificate as a certified public accountant issued under section 542D.6 or 542D.19, or a certificate issued under corresponding prior law.
4. "Certified public accountant" means a person licensed by the board who holds a certificate issued under this chapter or corresponding prior law.
5. "Certified public accounting firm" means a sole proprietorship, a corporation, a partnership, a limited liability company, or any other form of organization issued a permit to practice as a firm of certified public accountants under section 542D.7.
6. "Client" means a person or entity that agrees with a licensee or licensee's employer to receive a professional service.
7. "Commission" means a brokerage or other participation fee. "Commission" does not include a contingent fee.
8. "Compilation" means a service performed in accordance with statements on standards for accounting and review services and presented in the form of financial statements, which provides information that is the representation of management without undertaking to express any assurance on the statements.
9. "Contingent fee" means a fee established for the performance of a service pursuant to an arrangement under which a fee will not be charged unless a specified finding or result is attained, or under which the amount of the fee is otherwise dependent upon the finding or result of such service. "Contingent fee" does not mean a fee fixed by a court or other public authority, or a fee related to any tax matter which is based upon the results of a judicial proceeding or the findings of a governmental agency.

10. "License" means a certificate issued under section 542D.6 or 542D.19, a permit issued under section 542D.7, or a license issued under section 542D.8; or a certificate, permit, or license issued under corresponding prior law.

11. "Licensed public accountant" means a person licensed by the board who does not hold a certificate as a certified public accountant under this chapter, and who offers to perform or performs for the public any of the following services:

- a. Records financial transactions in books of record.
- b. Makes adjustments of financial transactions in books of record.
- c. Makes trial balances from books of record.
- d. Prepares internal verification and analysis of books or accounts of original entry.
- e. Prepares financial statements, schedules, or reports.
- f. Devises and installs systems or methods of bookkeeping, internal controls of financial data, or the recording of financial data.
- g. Prepares compilations.

Nothing contained in this definition or elsewhere in this chapter shall be construed to permit a licensed public accountant to give an opinion attesting to the reliability of any representation embracing financial information.

12. "Licensed public accounting firm" means a sole proprietorship, a corporation, a partnership, a limited liability company, or any other form of organization issued a permit to practice as a firm of licensed public accountants under section 542D.8.

13. "Licensee" means the holder of a license.

14. "Manager" means a manager of a limited liability company.

15. "Member" means a member of a limited liability company.

16. "Peer review" means a study, appraisal, or review of one or more aspects of the professional work of a licensee or firm that performs attest or compilation services, by a licensed person or persons who are not affiliated with the licensee or firm being reviewed. "Peer review" does not include a peer review conducted pursuant to chapter 272C in connection with a disciplinary investigation.

17. "Peer review records" means a file, report, or other information relating to the professional competence of an applicant in the possession of a peer review team, or information concerning the peer review developed by a peer review team in the possession of an applicant.

18. "Peer review team" means a person or organization participating in the peer review function, but does not include the board.

19. "Permit" means a permit to practice as either a certified public accounting firm issued under section 542D.7 or licensed public accounting firm under section 542D.8 or under corresponding provisions of prior law.

20. "Practice of public accounting" means the performance or the offering to perform, by a person holding oneself out to the public as a certified public accountant or a licensed public accountant, one or more kinds of professional services involving the use of accounting, attest, or auditing skills, including the issuance of reports on financial statements, or of one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. However, with respect to licensed public accountants, the "practice of public accounting" shall not include attest or auditing services or the rendering of an opinion attesting to the reliability of any representation embracing financial information.

21. "Report", when used with reference to financial statements, means a report, opinion, or other form of a writing that states or implies assurance as to the reliability of any financial statements and that includes or is accompanied by a statement or implication that the person or firm issuing the report has special knowledge or competence in accounting or auditing. Such statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. "Report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply a positive assurance as to the reliability of the financial statements

referred to or special knowledge or competence on the part of the person or firm issuing the language, and any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence.

22. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or Guam.

23. "Substantial equivalency" is a determination by the board that the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed, the education, examination, and experience requirements contained in this chapter or that an individual licensee's education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained in this chapter.

Sec. 4. NEW SECTION. 542D.4 IOWA ACCOUNTANCY EXAMINING BOARD.

1. An Iowa accountancy examining board is created within the professional licensing and regulation division of the department of commerce to administer and enforce this chapter. The board shall consist of eight members, appointed by the governor and subject to senate confirmation, all of whom shall be residents of this state. Five of the eight members shall be holders of certificates issued under section 542D.6, one member shall be the holder of a license issued under section 542D.8, and two shall not be certified public accountants or licensed public accountants and shall represent the general public. Not fewer than three of the holders of certificates issued under section 542D.6 shall also be qualified to supervise attest services as provided in section 542D.7. A certified or licensed member of the board shall be actively engaged in practice as a certified public accountant or as a licensed public accountant and shall have been so engaged for five years preceding appointment, the last two of which shall have been in this state. Professional associations or societies composed of certified public accountants or licensed public accountants may recommend the names of potential board members to the governor. However, the governor is not bound by the recommendations. A board member is not required to be a member of any professional association or society composed of certified public accountants or licensed public accountants. The term of each member of the board shall be three years, as designated by the governor, and appointments to the board are subject to the requirements of sections 69.16, 69.16A, and 69.19. Members of the board appointed and serving pursuant to chapter 542C, Code 2001, on the effective date of this Act shall serve out the terms for which they were appointed. Vacancies occurring during a term shall be filled by appointment by the governor for the unexpired term. Upon the expiration of the member's term of office, a member shall continue to serve until a successor shall have been appointed and taken office. The public members of the board shall be allowed to participate in administrative, clerical, or ministerial functions incident to giving the examinations, but shall not determine the content or determine the correctness of the answers. The licensed public accountant member shall not determine the content of the certified public accountant examination or determine the correctness of the answers. Any member of the board whose certificate under section 542D.6 or license under section 542D.8 is revoked or suspended shall automatically cease to be a member of the board, and the governor may, after a hearing, remove any member of the board for neglect of duty or other just cause. A person who has served three successive complete terms shall not be eligible for reappointment, but appointment to fill an unexpired term shall not be considered a complete term for this purpose.

2. The board shall elect annually from among its members a chairperson and such other officers as the board may determine to be appropriate. The board shall meet at such times and places as may be fixed by the board. A majority of the board members in office shall constitute a quorum at any meeting. The board shall maintain a registry of the names and addresses of all licensees and permittees under this chapter.

3. Members of the board are entitled to receive a per diem as specified in section 7E.6 for each day spent on performance of duties as members and shall be reimbursed for all actual and necessary expenses incurred in the performance of duties as members.

4. All moneys collected by the board from fees authorized to be charged by this chapter shall be received and accounted for by the board and shall be paid monthly to the treasurer of state for deposit in the general fund of the state. Expenses of administering this chapter shall be paid from appropriations made by the general assembly, which expenses may include, but shall not be limited to, the costs of conducting investigations and of taking testimony and procuring the attendance of witnesses before the board or its committees; all legal proceedings taken under this chapter for the enforcement of this chapter; and educational programs for the benefit of the public and licensees and their employees.

5. A member of the board shall maintain the confidentiality of information relating to the following:

- a. Criminal history or prior misconduct of the applicant.
- b. Information relating to the contents of the examination.
- c. Information relating to the examination results other than final score except for information about the results of the examination given to the person examined.

A member of the board who willfully communicates or seeks to communicate such information in a manner which violates confidentiality requirements, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

6. The administrator of the professional licensing and regulation division of the department of commerce shall provide staffing assistance to the board for implementing this chapter.

7. The board may join professional organizations and associations to promote the improvement of the standards of the practice of accountancy and for the protection and welfare of the public.

8. The board shall have the power to take all action that is necessary and proper to effectuate the purposes of this chapter, including the power to sue and be sued in its official name as an agency of this state. The board shall also have the power to issue subpoenas to compel the attendance of witnesses and the production of documents; to administer oaths; to take testimony; to cooperate with the appropriate authorities in other states in investigation and enforcement concerning violations of this chapter and comparable statutes of other states; and to receive evidence concerning all matters within the scope of this chapter. In case of disobedience of a subpoena, the board may invoke the aid of any district court in requiring the attendance and testimony of witnesses and the production of documentary evidence.

9. The board shall adopt rules pursuant to chapter 17A governing the administration and enforcement of this chapter and the conduct of licensees and permittees. Rules adopted shall include, but not be limited to, the following:

- a. Rules governing the board's meetings and the conduct of its business.
- b. Rules of procedure governing the conduct of investigations and hearings by the board.
- c. Rules specifying the educational and experience qualifications required for the issuance of a certificate under section 542D.6 and the continuing professional education required for renewal of a certificate under section 542D.6.
- d. Rules specifying the educational and experience qualifications required for the issuance of a license under section 542D.8 and the continuing professional education required for renewal of a license under section 542D.8.
- e. Rules of professional conduct directed to control the quality and probity of services provided by a licensee, and, among other areas, pertaining to a licensee's independence, integrity, and objectivity; competence and technical standards; responsibilities to the public; and responsibilities to a client.
- f. Rules relating to the propriety of opinions on financial statements by a certified public accountant who is not independent.
- g. Rules relating to actions discreditable to the practice as a certified public accountant or licensed public accountant.

- h. Rules relating to professional confidences between a certified public accountant or licensed public accountant and a client.
- i. Rules governing technical competence and the expression of opinions on financial statements.
- j. Rules governing the failure to disclose a material fact known to the certified public accountant or licensed public accountant.
- k. Rules relating to a material misstatement known to the certified public accountant or licensed public accountant.
- l. Rules governing negligent conduct in an examination or in making a report on an examination.
- m. Rules governing failure to direct attention to any material departure from generally accepted accounting principles.
- n. Rules governing the professional standards applicable to a licensee.
- o. Rules governing the manner and circumstances of use of the titles "certified public accountant" and "CPA".
- p. Rules governing the manner and circumstances of use of the titles "accounting practitioner" and "AP", and "licensed public accountant" and "LPA".
- q. Rules regarding peer review that may be required to be performed under this chapter.
- r. Rules on substantial equivalency under section 542D.19.
- s. Such other rules as the board deems necessary or appropriate for administering this chapter, including, but not limited to, rules establishing fees and rules of professional conduct, pertaining to corporations or limited liability companies practicing accounting, which the board deems consistent with or required by the public welfare. The board may adopt rules governing the style, name, and title of corporations and limited liability companies and governing the affiliation of corporations and limited liability companies with other organizations.

Sec. 5. NEW SECTION. 542D.5 QUALIFICATIONS FOR A CERTIFICATE AS A CERTIFIED PUBLIC ACCOUNTANT.

1. A certificate as a certified public accountant may be granted to a person of good moral character who makes application pursuant to section 542D.6 and who satisfies the education, experience, and examination requirements of this section and rules adopted pursuant to this section.

2. An applicant for a certificate who has been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other similar offense, or of any crime involving moral character or honesty, in a court of competent jurisdiction in this state, or another state, territory, or a district of the United States, or in a foreign jurisdiction, may be denied a certificate by the board on the grounds of the conviction. For purposes of this subsection, "conviction" means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction.

3. An applicant for a certificate who has had a professional license of any kind revoked in this or any other jurisdiction may be denied a certificate by the board on the grounds of the revocation.

4. A person who makes a false statement of material fact on an application for a certificate, or who causes to be submitted, or has been a party to preparing or submitting a false application for a certificate, may be denied a certificate by the board on the grounds of the false statement or submission. A certificate holder found to have made such a false statement or who has caused to be submitted, or was a party to preparing or submitting any false application for a certificate, may have the holder's certificate suspended or revoked by the board on the grounds of the false statement or submission.

5. A certified public accountant shall notify the board of such accountant's conviction of an offense included in subsection 2, within thirty days of such conviction. Failure of the

certified public accountant to notify the board of the conviction within thirty days of the date of the conviction is sufficient grounds for revocation of the certificate.

6. The board, when considering the denial or revocation of a certificate pursuant to subsections 2 through 5, shall consider the nature of the offense; any aggravating or extenuating circumstances which are documented; the time lapsed since the revocation, conduct, or conviction; the rehabilitation, treatment, or restitution performed by the applicant or certificate holder; and any other factors the board deems relevant. Character references may be required, but shall not be obtained from certified public accountants. An applicant shall not be denied a certificate because of age, citizenship, race, religion, marital status, or national origin, although the application may require citizenship information.

7. An applicant shall complete at least one hundred fifty semester hours, or the trimester or quarter equivalent of one hundred fifty semester hours, of college education, and receive a baccalaureate or higher degree conferred by a college or university recognized by the board, the total educational program to include a concentration in accounting or what the board determines to be substantially equivalent.

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

9. The board may admit to the examination a candidate who will complete the educational requirements for a baccalaureate degree with a concentration in accounting or what the board determines by rule to be substantially equivalent to a concentration in accounting within one hundred twenty days immediately following the date of the examination or who has completed those requirements. However, the board shall not report the results of the examination until the candidate has met the educational requirements for a baccalaureate degree and shall not issue the certificate until the candidate has fully satisfied the requirements of subsection 7.

10. Applicants who fail the examination once shall be allowed to take the examination again at a time determined by the board. Applicants who fail the examination twice shall be allowed to take the examination again at the discretion of the board. The board may by rule prescribe the terms and conditions under which a candidate who passes two or more subjects of the examination conducted in this state or by the licensing authority of another state may be reexamined in only the failed subjects and receive credit for the passed subjects. An applicant who has failed the examination may request in writing information from the board concerning the applicant's examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the board administers a uniform, standardized examination, the board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the board.

11. The board, by rule, may establish an examination fee to be charged each applicant by the board or by a third party administering the examination.



12. An applicant for initial issuance of a certificate must have no less than one year of experience. The experience shall include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, as verified by a licensee, meeting requirements prescribed by the board by rule. The experience is acceptable if it was gained through employment in government, industry, academia, or public practice.

13. A person holding a certificate as a certified public accountant issued by the state prior to July 1, 2002, is deemed to have met the requirements of this section.

Sec. 6. NEW SECTION. 542D.6 ISSUANCE AND RENEWAL OF CERTIFICATES — MAINTENANCE OF COMPETENCY.

1. a. The board shall issue a certificate to a person who makes application on a form prescribed and furnished by the board and who demonstrates either of the following:

(1) That the person's qualifications, including where applicable the qualifications prescribed by section 542D.5, satisfy the requirements of this section, or that the person holds a certificate issued under prior law.

(2) That the person holds in good standing a certificate or license to practice as a certified public accountant in another state or equivalent designation from a foreign country, and is eligible under the substantial equivalency or other provisions of section 542D.19.

b. The holder of a certificate issued under this section shall only provide attest services in a certified public accounting firm that is issued a permit under section 542D.7.

2. A certificate shall be initially issued, and renewed, for a period of not more than three years, but in any event shall expire on a date specified by rule. A person who fails to renew a certificate as a certified public accountant by the expiration date shall be allowed to do so within thirty days following its expiration, but the board may assess a reasonable penalty. The board shall specify by rule the conditions under which a lapsed certificate may be reinstated, including the imposition of administrative penalties.

3. A certificate holder, for renewal of a certificate under this section, shall participate in a program of learning designed to maintain professional competency. Such program of learning must comply with rules adopted by the board. The board, by rule, may grant an exception to this requirement for a certificate holder who does not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or the use of one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. A certificate holder entitled to an exception by rule of the board shall place the word "inactive" adjacent to the holder's certified public accountant title on any business card, letterhead, or other document or device, with the exception of the certificate holder's certified public accountant certificate, on which the certificate holder's certified public accountant title appears.

4. The board shall charge an application fee for initial issuance or renewal of a certificate in an amount prescribed by the board by rule.

5. An applicant for initial issuance or renewal of a certificate shall list in the application all states in which the applicant has applied for or holds a certificate, license, or permit and list any past denial, revocation, or suspension of a certificate, license, or permit. A holder of or applicant for a certificate under this section shall notify the board in writing, within thirty days after its occurrence, of any issuance, denial, revocation, or suspension of a certificate, license, or permit by another state.

6. The board, by rule, shall require as a condition for renewal of a certificate under this section, by any certificate holder who performs compilation services for the public other than through a certified public accounting firm, that such individual undergo, no more frequently than once every three years, a peer review conducted in such manner as the board shall by rule specify, and such review shall include verification that such individual has met the competency requirements set out in professional standards for such services.

Sec. 7. NEW SECTION. 542D.7 FIRM PERMITS TO PRACTICE — ATTEST EXPERIENCE AND PEER REVIEW.

1. The board shall issue or renew a permit to practice to a certified public accounting firm that makes application and demonstrates the qualifications set forth in this section, or to a qualified certified public accounting firm originally licensed in another state that establishes an office in this state or otherwise provides services for clients in this state on a regular or recurring basis. A certified public accounting firm licensed and located in another state or foreign jurisdiction shall be allowed to audit a business unit located in Iowa without a permit to practice if the Iowa business unit is part of a multistate company whose principal offices are located outside of this state. A person or firm holding a permit to practice issued by this state prior to July 1, 2002, is deemed to have met the requirements of this section. A firm must hold a permit issued under this section in order to provide attest services or to use the title "CPAs" or "CPA firm".

2. A permit shall be initially issued and renewed for a period of not more than three years, but in any event shall expire on a date specified by rule. An application for a permit shall be made in such form, and in the case of an application for renewal, between such dates as the board may by rule specify.

3. a. An applicant for initial issuance or renewal of a permit to practice as a firm must show that notwithstanding any other provision of law, a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members, and managers belongs to holders of a certificate issued by a state, and that such partners, officers, shareholders, members, and managers, who perform professional services in this state or for clients in this state, hold a certificate issued under section 542D.6 or 542D.19.

b. A certified public accounting firm may include a nonlicensee owner provided all of the following occur:

(1) Such firm designates a licensee who is responsible for the proper registration of the firm, and identifies that individual to the board.

(2) All nonlicensee owners are active participants in the firm or an affiliated entity.

(3) All nonlicensee owners participate in a program of learning designed to maintain professional competency in compliance with rules adopted by the board which shall include requiring compliance with requirements imposed by a regulatory authority charged with regulation of a nonlicensee owner's professional or occupational license which is relevant to the firm's services.

(4) All nonlicensee owners comply with all applicable rules of professional conduct adopted by the board, and their own regulatory authority.

(5) Such firm complies with other requirements as established by the board by rule.

c. A licensee who is responsible for supervising attest or compilation services and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm, shall meet the experience or competency requirements set out in nationally recognized professional standards for such services.

d. A licensee who signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm shall meet the experience or competency requirements established in paragraph "c".

4. An applicant for initial issuance or renewal of a permit to practice as a certified public accounting firm is required to register each office of the firm within this state with the board and to show that all attest and compilation services rendered in this state are under the charge of a person holding a valid certificate issued under section 542D.6 or 542D.19.

5. The board, by rule, shall establish and charge an application fee for each application for initial issuance or renewal of a permit.

6. An applicant for initial issuance or renewal of a permit shall list in the application all states in which the applicant has applied for or holds a permit as a certified public accounting firm and list any past denial, revocation, or suspension of a permit by another state. A

holder of or applicant for a permit shall notify the board in writing within thirty days after an occurrence of any of the following:

- a. A change in the identity of a partner, officer, shareholder, member, or manager who performs professional services in this state or for clients in this state.
- b. A change in the number or location of offices within this state.
- c. A change in the identity of a person in charge of such offices.
- d. The issuance, denial, revocation, or suspension of a permit by another state.

7. A firm, after receiving or renewing a permit which is not in compliance with this section as a result of a change in firm ownership or personnel, shall take corrective action to bring the firm back into compliance as quickly as possible or apply to modify or amend the permit. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to comply within a reasonable period as deemed by the board shall result in the suspension or revocation of the firm permit.

8. The board, by rule, shall require as a condition to renewal of a permit to practice as a certified public accounting firm, that an applicant undergo, no more frequently than once every three years, a peer review conducted in such manner as the board specifies. The review shall include a verification that any individual in the firm who is responsible for supervising attest and compilation services and who signs or authorizes someone to sign the accountant's report on a financial statement on behalf of the firm meets the competency requirements set forth in the professional standards for such services.

Such rules shall include reasonable provision for compliance by an applicant showing that the applicant, within the preceding three years, has undergone a peer review that is a satisfactory equivalent to the peer review required under this subsection. An applicant's completion of a peer review program endorsed or supported by the American institute of certified public accountants, or other substantially similar review as determined by the board, satisfies the requirements of this subsection.

9. An applicant for a permit to practice as a certified public accounting firm, at the time of renewal, may request in writing upon forms provided by the board, a waiver from the requirements of subsection 8. The board may grant a waiver upon a showing satisfactory to the board of any of the following:

- a. The applicant does not engage in, and does not intend to engage in during the following year, financial reporting areas of practice, including but not limited to financial audits, compilations, and reviews. An applicant granted a waiver pursuant to this paragraph shall immediately notify the board if the applicant engages in such practice, and shall be subject to peer review.
- b. Reasons of health.
- c. Military service.
- d. Instances of hardship.
- e. Other good cause as determined by the board.

10. Peer review records are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion. Peer review records are not admissible in evidence in a judicial, administrative, or arbitration proceeding. Information or documents discoverable from sources other than a peer review team do not become nondiscoverable from such other sources because they are made available to or are in the possession of a peer review team. Information or documents publicly available from the American institute of certified public accountants relating to quality or peer review are not privileged or confidential under this subsection. A person or organization participating in the peer review process shall not testify as to the findings, recommendations, evaluations, or opinions of a peer review team in a judicial, administrative, or arbitration proceeding.

11. A person is not liable as a result of an act, omission, or decision made in connection with the person's service on a peer review team, unless the act, omission, or decision is made with actual malice. A person is not liable as a result of providing information to a peer review team, or for disclosure of privileged matters to a peer review team.

12. The costs of the peer review shall be paid by the applicant.

Sec. 8. NEW SECTION. 542D.8 QUALIFICATIONS FOR AND ISSUANCE OF A LICENSE AS A LICENSED PUBLIC ACCOUNTANT — RENEWAL OF LICENSE — FIRM REGISTRATION — PEER REVIEW.

1. The license of a licensed public accountant shall be granted by the board to any person who meets one of the following requirements:

a. The applicant holds a license as an accounting practitioner issued under the laws of this state in full force and effect on the effective date of this Act and has completed additional educational requirements as prescribed by the board.

b. The applicant has satisfactorily completed the examination prescribed in subsection 2 after having met one of the following:

(1) The applicant has had two or more years' actual experience in practice as an accountant as an employee of a certified public accountant, an accounting practitioner, or a licensed public accountant.

(2) The applicant submits evidence satisfactory to the board that the applicant is a graduate of a four-year college or university accredited by the north central accreditation association or other regional accreditation association having equivalent standards, with a major in accounting, or that the applicant is a graduate in accountancy from a business or correspondence school accredited by the accrediting commission for business schools or the accrediting commission of the national home study council.

(3) The applicant submits evidence of at least five years of continuous experience engaged in performing any of the services delineated in section 542D.3, subsection 11, on a full-time basis.

2. An examination shall be conducted by the board as often as deemed necessary, but not less than two times per year.

3. The examination shall be designed and given in a manner as to fairly test the applicant's knowledge of accounting. The examination shall not include questions relating to the subject of auditing.

4. The board, in its discretion, may use all or any part of a standard or uniform examination and advisory grading service that is provided or furnished by a national accounting organization or society to assist the board in the performance of its duties under this chapter. The identity of the person taking the examination shall be concealed until after the examination papers have been graded.

5. If an applicant has partially passed an examination given in another state determined by the board to be substantially equivalent to the examination required by this state and meets eligibility requirements that the board finds to be substantially equivalent to those prescribed by this state, the results of the other state's examination shall be accepted as though given in this state.

6. An applicant who successfully passes all subjects in which examined shall be issued a license as a licensed public accountant by the board. The cost of the license shall be based upon the administrative costs of the board and the costs of issuing the license.

7. An applicant who fails the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, the applicant shall be allowed to take the examination at the discretion of the board. An applicant who passes a portion of the examination shall have the right to be reexamined in the remaining subjects at a future examination, and if the applicant passes the remaining subjects, the applicant shall be considered to have passed the entire examination. An applicant who fails the examination may request in writing information from the board concerning the applicant's examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the board administers a uniform, standardized examination, the board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which is available to the board.

8. An applicant for initial issuance of a license must have no less than one year of experience. The experience shall include providing any type of service or advice involving the use of accounting, compilation, management advisory, financial advisory, tax, or consult-

ing skills, as verified by a licensee, meeting requirements prescribed by the board by rule. The experience is acceptable if gained through employment in government, industry, academia, or public practice.

9. a. The licensed public accountant license shall expire in multiyear intervals as determined by the board. The board shall notify a person licensed under this chapter of the date of expiration of the license and the amount of the fee required for its renewal. The notice shall be mailed at least one month in advance of the expiration date. A person who fails to renew a license as a licensed public accountant by the expiration date shall be allowed to do so within thirty days following its expiration, but the board may assess a reasonable penalty.

b. A licensee, for renewal of a license under this section, shall participate in a program of learning designed to maintain professional competency. Such program of learning must comply with rules adopted by the board. The board, by rule, may grant an exception to this requirement for a licensee who does not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or the use of one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. A licensee entitled to an exception by rule of the board shall place the word "inactive" adjacent to the licensee's licensed public accountant title on any business card, letterhead, or other document or device, with the exception of the licensee's licensed public accountant license, on which the licensee's licensed public accountant title appears.

10. The board, in its discretion, may waive an examination and issue a license as a licensed public accountant to an applicant for one of the following:

a. The applicant holds a license as a licensed public accountant, an accounting practitioner, or similar title issued, after examination, by a state which extends by substantial equivalency privileges to a licensed public accountant of this state, and who, at the time of issuance of the registration, possessed the basic qualifications set forth in subsection 1.

b. The applicant has passed the examination required under the laws of another state and possesses the basic qualifications set forth in subsection 1 at the time the applicant applied for registration in this state.

11. A person applying for a license as a licensed public accountant shall pay a fee as determined by the board based upon the costs of issuing such licenses.

12. The board shall issue or renew a permit to practice as a licensed public accounting firm to a person that makes application and demonstrates the qualification set forth in this section or to a licensed public accounting firm originally registered in another state that provides evidence that the qualifications met in the other state are substantially equivalent to those required by this section. A firm must hold a permit issued under this section in order to use the title "LPA" or "Licensed Public Accountants" in a firm name.

a. An applicant for initial issuance or renewal of a permit to practice as a firm under this section must show that notwithstanding any other provision of law, a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members, and managers belongs to the holders of a certificate or license issued by a state, and that such partners, officers, shareholders, members, and managers, who perform professional services in this state or for clients in this state, hold a certificate issued under section 542D.6 or a license issued under section 542D.8.

b. A licensed public accounting firm may include a nonlicensee owner provided all of the following occur:

(1) Such firm designates a licensee who is responsible for the proper registration of the firm, and identifies that individual to the board.

(2) All nonlicensee owners are active participants in the firm or an affiliated entity.

(3) All nonlicensee owners participate in a program of learning designed to maintain professional competency in compliance with rules adopted by the board which shall include requiring compliance with requirements imposed by a regulatory authority charged with

regulation of a nonlicensee owner's professional or occupational license which is relevant to the firm's services.

(4) All nonlicensee owners comply with all applicable rules of professional conduct adopted by the board, and their own regulatory authority.

(5) Such firm complies with other requirements as established by the board by rule.

c. An individual licensee who is responsible for compilation services and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm shall meet the competency requirements set out in nationally recognized professional standards for such services.

d. An individual licensee who signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm shall meet the competency requirements set out in nationally recognized professional standards for such services.

13. An applicant for initial issuance or renewal of a permit to practice as a licensed public accounting firm is required to register each office of the firm within this state with the board and to show that all compilation services rendered in this state are under the charge of a person holding a valid certificate issued under section 542D.6 or 542D.19, or a license issued under section 542D.8.

14. The board, by rule, shall establish and charge an application fee for each application for initial issuance or renewal of a permit.

15. An applicant for initial issuance or renewal of a permit shall list in the application all states in which the applicant has applied for or holds a permit as a certified public accountant or a licensed public accounting firm and list any past denial, revocation, or suspension of a permit by another state. A holder of or applicant for a permit shall notify the board in writing within thirty days after an occurrence of any of the following:

a. A change in the identity of a partner, officer, shareholder, member, or manager who performs professional services in this state or for clients in this state.

b. A change in the number or location of offices within this state.

c. A change in the identity of a person in charge of such offices.

d. The issuance, denial, revocation, or suspension of a permit by another state.

16. A firm, after receiving or renewing a permit which is not in compliance with this section as a result of a change in firm ownership or personnel, shall take corrective action to bring the firm back into compliance as quickly as possible or apply to modify or amend the permit. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to comply within a reasonable period as deemed by the board shall result in the suspension or revocation of the firm permit.

17. The board, by rule, shall require as a condition to renewal of a permit to practice as a licensed public accounting firm, that an applicant undergo, no more frequently than once every three years, a peer review conducted in such manner as the board specifies. The review shall include verification that any individual in the firm who is responsible for supervising compilation services and who signs or authorizes someone to sign the accountant's report on a financial statement on behalf of the firm meets the competency requirements set forth in the professional standards for such services. Such rules shall include reasonable provision for compliance by an applicant showing that the applicant, within the preceding three years, has undergone a peer review that is a satisfactory equivalent to the peer review required under this subsection. An applicant's completion of a peer review program endorsed or supported by the national society of accountants, or other substantially similar review as determined by the board, satisfies the requirements of this subsection.

18. An applicant for a permit to practice as a licensed public accounting firm, at the time of renewal, may request in writing upon forms provided by the board, a waiver from the requirements of subsection 17. The board may grant a waiver upon a showing satisfactory to the board of any of the following:

a. The applicant does not engage in, and does not intend to engage in during the following year, financial reporting areas of practice, including but not limited to compilations. An

applicant granted a waiver pursuant to this paragraph shall immediately notify the board if the applicant engages in such practice, and shall be subject to peer review.

- b. Reasons of health.
- c. Military service.
- d. Instances of hardship.
- e. Other good cause as determined by the board.

19. Peer review records are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion. Peer review records are not admissible in evidence in a judicial, administrative, or arbitration proceeding. Information or documents discoverable from sources other than a peer review team do not become nondiscoverable from such other sources because they are made available to or are in the possession of a peer review team. Information or documents publicly available from the national society of accountants relating to quality or peer review are not privileged or confidential under this subsection. A person or organization participating in the peer review process shall not testify as to the findings, recommendations, evaluations, or opinions of a peer review team in a judicial, administrative, or arbitration proceeding.

20. A person is not liable as a result of an act, omission, or decision made in connection with the person's service in a peer review team, unless the act, omission, or decision is made with actual malice. A person is not liable as a result of providing information to a peer review team, or for disclosure of privileged matters to a peer review team.

21. The costs of the peer review shall be paid by the applicant.

Sec. 9. NEW SECTION. 542D.9 APPOINTMENT OF SECRETARY OF STATE AS AGENT.

Application for a certificate under section 542D.6, a license under section 542D.8, a permit to practice under section 542D.7, or a certificate under section 542D.19 by a person or a firm not a resident of this state constitutes appointment of the secretary of state as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of a transaction or operation connected with or incidental to services performed by the applicant while a licensee within this state.

Sec. 10. NEW SECTION. 542D.10 ENFORCEMENT AGAINST A HOLDER OF A CERTIFICATE, PERMIT, OR LICENSE.

1. After notice and hearing pursuant to section 542D.11, the board may revoke, suspend for a period of time not to exceed two years, or refuse to renew a license; reprimand, censure, or limit the scope of practice of any licensee; impose an administrative penalty not to exceed one thousand dollars per violation; or place any licensee on probation; all with or without terms, conditions, and in combinations of remedies, for any one or more of the following reasons:

- a. Fraud or deceit in obtaining a license, which may also result in permanent revocation of the license.
- b. Dishonesty, fraud, or gross negligence in the practice of public accounting.
- c. Engaging in any activity prohibited under section 542D.13 or permitting persons under the licensee's supervision to do so.
- d. Violation of a rule of professional conduct adopted by the board under the authority granted by this chapter.
- e. Conviction of a felony under the laws of any state of the United States.
- f. Conviction of any crime, any element of which is dishonesty or fraud as provided in section 542D.5, subsection 2, under the laws of any state of the United States.
- g. Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant, licensed public accountant, or accounting practitioner, or the acceptance of the voluntary surrender of a license to practice as a certified public accountant, licensed public accountant, or accounting practitioner to conclude a pending disciplinary action, by any other state or foreign authority for any cause other than failure to pay appropriate fees in the other jurisdiction.

- h. Suspension or revocation of the right to practice before any state or federal agency.
- i. Conduct discreditable to the public accounting profession.
- j. Violation of section 272C.10.

2. Multiple violations arising from the same factual circumstances or from different factual circumstances containing a common error shall be considered as a single violation for the purpose of imposition of an administrative penalty.

3. In lieu of or in addition to any remedy specifically provided in subsection 1, the board may require a licensee to satisfy a peer review or desk review process on such terms as the board may specify, satisfactorily complete a continuing education program, or such additional remedies as the board may specify by rule.

Sec. 11. NEW SECTION. 542D.11 INVESTIGATIONS AND HEARINGS.

1. The board may initiate proceedings under this chapter upon written complaint or on its own motion pursuant to other information received by the board suggesting violations of this chapter or board rules. The board may conduct an investigation as needed to determine whether probable cause exists to initiate such proceedings. In aid of such investigation, the board may issue subpoenas to compel witnesses to testify or persons to produce evidence consistent with the provisions of section 272C.6, subsection 3. The board may also review the publicly available public accounting work product of licensees on a general or random basis to determine whether reasonable grounds exist to initiate proceedings under this chapter or to conduct a more specific investigation.

2. A written notice stating the nature of the charge or charges against the accused and the time and place of the hearing before the board on the charges shall be served on the accused not less than thirty days prior to the date of hearing either personally or by mailing a copy by restricted certified mail to the last known address of the accused.

3. At any hearing the accused may appear in person or by counsel, produce evidence and witnesses on behalf of the accused, cross-examine witnesses, and examine evidence which is produced against the accused. A firm may appear by a partner, officer, director, shareholder, member, or manager.

4. The board may issue subpoenas in any proceeding to compel witnesses to testify and to produce documentary evidence on behalf of the board and shall issue such subpoenas upon the application of the accused, pursuant to section 17A.13, subsection 1, and section 272C.6, subsection 3.

5. Evidence supporting the board's charges may be presented at any hearing by an assistant attorney general.

6. The decision of the board shall be by a majority vote of a quorum of the board. Licensee discipline shall only be imposed upon the majority vote of the members of the board not disqualified pursuant to section 17A.17, subsection 8, or other applicable law.

7. Judicial review may be sought in accordance with chapter 17A.

Sec. 12. NEW SECTION. 542D.12 REINSTATEMENT.

1. In any case in which the board has suspended, revoked, or restricted a license, refused to renew a license, or accepted the voluntary surrender of a license to conclude a pending disciplinary investigation or action, the board may, upon written application, modify or terminate the suspension, reissue the license, or modify or remove the restriction, with or without terms and conditions.

2. The board is vested with discretionary authority to specify by rule the manner in which such applications shall be made, the times within which they shall be made, the circumstances in which a hearing will be held, and the grounds upon which such applications will be decided. The rules shall provide at a minimum that the burden is on the licensee to produce evidence that the basis for revocation, suspension, restriction, refusal to renew, or voluntarily surrender no longer exists and that it will be in the public interest for the board to grant the application on such terms and conditions as the board deems desirable.



Sec. 13. NEW SECTION. 542D.13 UNLAWFUL ACTS.

1. Only a certified public accountant may issue a report on financial statements of a person, firm, organization, or governmental unit, or offer to render or render any attest service. Only a certified public accountant or licensed public accountant may render compilation services. This restriction does not prohibit such acts by a public official or public employee in the performance of that person's duties; or prohibit the performance by any nonlicensee of other services involving the use of accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports on such financial statements. A nonlicensee may prepare financial statements and issue nonattest transmittals or information on such statements or transmittals which do not purport to be in compliance with the statements on standards for accounting and review services.

2. A licensee performing attest or compilation services must provide those services consistent with professional standards.

3. A person not holding a certificate shall not use or assume the title "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant.

4. A firm shall not provide attest services or assume or use the title "certified public accountants" or the abbreviation "CPAs" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is a certified public accounting firm unless the firm holds a permit issued under section 542D.7 and ownership of the firm satisfies the requirements of this chapter and rules adopted by the board.

5. A person shall not assume or use the title "licensed public accountant" or the abbreviation "LPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a licensed public accountant unless that person holds a license issued under section 542D.8.

6. A firm not holding a permit issued under section 542D.8 shall not provide compilation services or assume or use the title "licensed public accountant", the abbreviation "LPA", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is composed of licensed public accountants.

7. A person or firm not holding a certificate, permit, or license issued under section 542D.6, 542D.7, 542D.8, or 542D.19 shall not assume or use the title "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", "accredited accountant", or any other title or designation likely to be confused with the title "certified public accountant" or "licensed public accountant", or use any of the abbreviations "CA", "LA", "RA", "AA", or similar abbreviation likely to be confused with the abbreviation "CPA" or "LPA". The title "enrolled agent" or "EA" may be used by individuals so designated by the Internal Revenue Service. Nothing in this section shall restrict truthful advertising of a bona fide credential or title which in context is not deceptive or misleading to the public.

8. A nonlicensee shall not use language in any statement relating to the financial affairs of a person or entity which is conventionally used by licensees in reports on financial statements. The board shall develop and issue language which nonlicensees may use in connection with such financial information.

9. A person or firm not holding a certificate, permit, or license issued under section 542D.6, 542D.7, 542D.8, or 542D.19 shall not assume or use any title or designation that includes the word "accountant", "auditor", or "accounting", in connection with any other language that implies that such person or firm holds such a certificate, permit, or license or has special competence as an accountant or auditor. However, this subsection does not prohibit an officer, partner, member, manager, or employee of a firm or organization from affixing that person's own signature to a statement in reference to the financial affairs of such firm or organization with wording which designates the position, title, or office that the person holds, or prohibit any act of a public official or employee in the performance of such person's

duties. This subsection does not prohibit the use of the title or designation "accountant" by persons other than those holding a certificate or license under this chapter.

10. A person holding a certificate or license or firm holding a permit under this chapter shall not use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter. However, the name of one or more former partners, members, managers, or shareholders may be included in the name of a firm or its successor.

11. This section does not apply to a person or firm holding a certification, designation, degree, or license granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in such country, whose activities in this state are limited to providing professional services to a person or firm who is a resident of, government of, or business entity of the country in which the person holds such entitlement, who does not perform attest or compilation services, and who does not issue reports with respect to the financial statements of any other person, firm, or governmental unit in this state, and who does not use in this state any title or designation other than the one under which the person practices in such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.

12. A holder of a certificate issued under section 542D.6 or 542D.19 shall not perform attest services in a firm that does not hold a permit issued under section 542D.7.

13. An individual licensee shall not issue a report in standard form upon a compilation of financial information through any form of business that does not hold a permit issued under section 542D.7 unless the report discloses the name of the business through which the individual is issuing the report and the individual licensee does all of the following:

a. Signs the compilation report identifying the individual as a certified public accountant or licensed public accountant.

b. Meets competency requirements provided in applicable standards.

c. Undergoes, no less frequently than once every three years, a peer review conducted in a manner as specified by the board. The review shall include verification that such individual has met the competency requirements set out in professional standards for such services.

14. This section does not prohibit a practicing attorney from preparing or presenting records or documents customarily prepared by an attorney in connection with the attorney's professional work in the practice of law.

15. a. A licensee shall not for a commission recommend or refer a client to any product or service, or for a commission recommend or refer another person to any product or service to be supplied by a client, or receive a commission, when the licensee also performs for that client any of the following:

(1) An audit or review of a financial statement.

(2) A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence.

(3) An examination of prospective financial information.

The prohibitions under this paragraph "a" apply during the period in which the licensee is engaged to perform any of the services identified in subparagraphs (1) through (3), and the period covered by any historical financial statements involved in such services.

b. A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

c. A licensee who accepts a referral fee for recommending a service of a licensee or referring a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment to the client.

16. a. A licensee shall not do any of the following:

(1) Perform professional services for a contingent fee, or receive such fee from a client for whom the licensee or the licensee's firm performs any of the following:

(a) An audit or review of a financial statement.

(b) A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence.

(c) An examination of prospective financial information.

(2) Prepare for a client an original or amended tax return or claim for a tax refund for a contingent fee.

b. Paragraph "a" applies during the period in which the licensee is engaged to perform any of the listed services and the period covered by any historical financial statements involved in such listed services.

c. For purposes of this subsection, a contingent fee is a fee established for the performance of a service pursuant to an arrangement in which a fee will not be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. A fee shall not be considered as being a contingent fee if fixed by a court or other public authority, or, in a tax matter, if determined based on the results of a judicial proceeding or the findings of a governmental agency. A licensee's fee may vary depending on the complexity of the services rendered.

d. Nothing contained in this chapter shall be construed to authorize any person engaged in the practice as a certified public accountant or licensed public accountant or any member or employee of such firm to engage in the practice of law individually or within entities licensed under this chapter.

Sec. 14. NEW SECTION. 542D.14 INJUNCTION AGAINST UNLAWFUL ACTS, CIVIL PENALTIES, AND CONSENT AGREEMENTS.

1. If, as a result of an investigation under section 542D.11 or otherwise, the board believes that a person or firm has engaged, or is about to engage, in an act or practice which constitutes or will constitute a violation of section 542D.13, the board may make application to the district court for an order enjoining such act or practice. Upon a showing by the board that such person or firm has engaged, or is about to engage, in any such act or practice, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

2. In addition to a criminal penalty provided for in section 542D.15, the board may issue an order to require compliance with section 542D.13 and may impose a civil penalty not to exceed one thousand dollars for each offense upon a person who is not a licensee under this chapter and who engages in conduct prohibited by section 542D.13. Each day of a continued violation constitutes a separate offense.

3. The board, in determining the amount of a civil penalty to be imposed, may consider any of the following:

a. Whether the amount imposed will be a substantial economic deterrent to the violation.

b. The circumstances leading to the violation.

c. The severity of the violation and the risk of harm to the public.

d. The economic benefits gained by the violator as a result of noncompliance.

e. The interest of the public.

4. The board, before issuing an order under this section, shall provide the person written notice and the opportunity to request a hearing. The hearing must be requested within thirty days after receipt of the notice and shall be conducted in the same manner as provided for disciplinary proceedings involving a licensee under this chapter.

5. The board, in connection with a proceeding under this section, may issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence, and may request the attorney general to bring an action to enforce the subpoena.

6. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review pursuant to section 17A.19.

7. If a person fails to pay a civil penalty within thirty days after entry of an order imposing the civil penalty, or if the order is stayed pending an appeal, within ten days after the court enters a final judgment in favor of the board, the board shall notify the attorney general. The attorney general may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs.

8. An action to enforce an order under this section may be joined with an action for an injunction.

9. The board, in its discretion and in lieu of prosecuting a first offense under this section, may enter into a consent agreement with a violator, or with a person guilty of aiding or abetting a violator, which acknowledges the violation and the violator's agreement to refrain from any further violations.

Sec. 15. NEW SECTION. 542D.15 CRIMINAL PENALTIES.

1. A person who violates a provision of section 542D.13 is guilty of a serious misdemeanor.

2. If the board has reason to believe that a person has committed a violation subject to subsection 1, the board may certify the facts to the attorney general of this state, or to the county attorney of the county where the person maintains a business office, who, in the attorney general's or county attorney's discretion, may initiate an appropriate criminal proceeding.

3. If, after an investigation under section 542D.11 or otherwise, the board has reason to believe that a person or firm has knowingly engaged in an act or practice that constitutes a violation subject to subsection 1, the board may submit its information to the attorney general of any state, or other appropriate law enforcement official, who, in such official's discretion, may initiate an appropriate criminal proceeding.

Sec. 16. NEW SECTION. 542D.16 SINGLE ACT EVIDENCE OF PRACTICE.

In an action brought under section 542D.14 or 542D.15, evidence of the commission of a single act prohibited by this chapter is sufficient to justify a penalty, injunction, restraining order, or conviction, without evidence of a general course of conduct.

Sec. 17. NEW SECTION. 542D.17 CONFIDENTIAL COMMUNICATIONS.

A licensee shall not voluntarily disclose information communicated to the licensee by a client relating to and in connection with services rendered to the client by the licensee, except with the permission of the client, or an heir, successor, or personal representative of the client. Such information is deemed to be confidential. However, this section shall not be construed as prohibiting the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements or as prohibiting disclosures in a court proceeding, in an investigation or proceeding under this chapter or chapter 272C, in an ethical investigation conducted by a private professional organization, in the course of a peer review, to another person active in the licensee's firm performing services for that client on a need-to-know basis, to persons associated with the investigative entity who need this information for the sole purpose of assuring quality control, or as otherwise required by law.

This section does not preclude a licensee from filing a complaint with, or responding to an inquiry made by, the board, a taxing authority or law enforcement authority of this state, or a licensing or similar authority of another state or the United States.

Sec. 18. NEW SECTION. 542D.18 LICENSEES' WORKING PAPERS — CLIENTS' RECORDS.

1. Subject to section 542D.17, all statements, records, schedules, working papers, and memoranda made by a licensee or a partner, shareholder, officer, director, member, manager, or employee of a licensee, incident to, or in the course of, rendering services to a client, except reports submitted by the licensee to the client and except for records that are part of the client's records, are the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. Such statement, record, schedule, work-

ing paper, or memorandum shall not be sold, transferred, or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than a surviving partner, stockholder, or member of the licensee, or any combined or merged firm or successor in interest to the licensee. This section shall not be construed as prohibiting a temporary transfer of working papers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to section 542D.17.

2. A licensee shall furnish to a client or former client, upon request and reasonable notice, the following:

a. A copy of the licensee's working papers, to the extent that such working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client.

b. Accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of such documents of the client when they form the basis for work done by the licensee.

3. This chapter does not require a licensee to keep any working papers beyond the period prescribed in any other applicable statute.

Sec. 19. NEW SECTION. 542D.19 SUBSTANTIAL EQUIVALENCY.

1. An individual whose principal place of business is not in this state shall be granted a certificate to practice as a certified public accountant in this state if the board determines that the individual holds in good standing a valid certificate or license to practice as a certified public accountant in the state in which the individual's principal place of business is located, and that the individual satisfies one of the following conditions:

a. The other state's licensing standards are substantially equivalent to those required by this chapter.

b. The applicant's individual qualifications are substantially equivalent to those required by section 542D.5.

c. The applicant satisfies all of the following:

(1) The applicant passed the examination required for issuance of the applicant's certificate or license with grades that would have been passing grades at the time in this state;

(2) The applicant has at least four years of experience within the ten years immediately preceding the application which occurred after passing the examination upon which the applicant's certificate or license was based and which in the board's opinion is substantially equivalent to that required by section 542D.5, subsection 12; and,

(3) If the applicant's certificate or license was issued more than four years prior to the filing of the application in this state, the applicant has fulfilled the continuing professional education requirements described in section 542D.6, subsection 3.

2. An individual who holds in good standing a valid certificate or license to practice as a certified public accountant in another state and who desires to establish the holder's principal place of business in this state shall request the issuance of a certificate from the board prior to establishing such principal place of business. The board shall issue a certificate to an individual who satisfies one or more of the conditions described in subsection 1.

3. The board shall issue a certificate to a holder of a substantially equivalent foreign designation, upon satisfaction of all of the following:

a. The foreign authority which issued the designation allows a person who holds a valid certificate issued by this state to obtain such foreign authority's comparable designation.

b. The foreign designation satisfies all of the following:

(1) The designation was issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended.

(2) The designation entitles the holder to issue reports on financial statements.

(3) The designation was issued upon the basis of education, examination, and experience requirements established by the foreign authority or by law.

c. The applicant satisfies all of the following:

(1) The designation was issued based on education and examination standards substantially equivalent to those in effect in this state at the time the foreign designation was granted.

(2) The applicant satisfies an experience requirement, substantially equivalent to the requirement set out in section 542D.5, subsection 12, in the jurisdiction which issued the foreign designation or has completed four years of professional experience in this state; or meets equivalent requirements prescribed by the board by rule, within the ten years immediately preceding the application.

(3) The applicant has passed qualifying examinations in national standards and the laws, rules, and code of ethical conduct in effect in this state.

(4) The applicant shall list in the application all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy. A holder of a certificate issued under this section shall notify the board in writing, within thirty days after its occurrence, of any issuance, denial, revocation, or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

4. An applicant under this section shall comply with all applicable provisions of section 542D.5, subsections 1 through 6, and section 542D.6.

5. The board shall adopt rules to implement this section which will expedite the application process to the extent reasonably possible.

Sec. 20. Section 15E.208, subsection 5, paragraph d, subparagraph (4), Code 2001, is amended to read as follows:

(4) The manner of oversight required by the department or the auditor of state. The articles must provide that the corporation shall submit a report to the governor, the general assembly, and the department. The report shall provide a description of the corporation's activities and a summary of its finances, including financial awards. The report shall be submitted not later than January 10 of each year. The articles shall provide that an audit of the corporation must be conducted each year for the preceding year by a certified public accountant licensed pursuant to chapter ~~542C~~ 542D. The auditor of state may audit the books and accounts of the corporation at any time. The results of the annual audit and any audit for the current year conducted by the auditor of state shall be included as part of the report.

Sec. 21. Section 99D.20, Code 2001, is amended to read as follows:

99D.20 AUDIT OF LICENSEE OPERATIONS.

Within ninety days after the end of each race meet, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's operations conducted under this chapter. Additionally, within ninety days after the end of the licensee's fiscal year, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's total operations. All audits shall be conducted by certified public accountants registered in the state of Iowa under chapter ~~542C~~ 542D.

Sec. 22. Section 99F.13, Code 2001, is amended to read as follows:

99F.13 ANNUAL AUDIT OF LICENSEE OPERATIONS.

Within ninety days after the end of the licensee's fiscal year, the licensee shall transmit to the commission an audit of the financial transactions and condition of the licensee's total operations. All audits shall be conducted by certified public accountants registered or licensed in the state of Iowa under chapter ~~542C~~ 542D.

Sec. 23. Section 203.16, subsection 7, Code 2001, is amended to read as follows:

7. Where released at the request of the Iowa ~~board of accountancy~~ examining board for licensee review and discipline in accordance with chapters 272C and ~~542C~~ 542D and subject to the confidentiality requirements of section 272C.6.

Sec. 24. Section 203C.24, subsection 7, Code 2001, is amended to read as follows:

7. Where released at the request of the Iowa ~~board of accountancy~~ examining board for licensee review and discipline in accordance with chapters 272C and ~~542C~~ 542D and subject to the confidentiality requirements of section 272C.6.

Sec. 25. Section 272C.1, subsection 6, paragraph c, Code 2001, is amended to read as follows:

c. The Iowa accountancy examining board, created pursuant to chapter ~~542C~~ 542D.

Sec. 26. Section 272C.3, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon any of the grounds specified in section 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 542B.21, ~~542C.21~~ 542D.10, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151, 155, 507B or 522, as applicable, or upon any other grounds specifically provided for in this chapter for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline;

Sec. 27. Section 272C.4, subsection 6, Code 2001, is amended to read as follows:

6. Define by rule acts or omissions which are grounds for revocation or suspension of a license under section 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.191, 542B.21, ~~542C.21~~ 542D.10, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151, 155, 507B or 522, as applicable, and to define by rule acts or omissions which constitute negligence, careless acts or omissions within the meaning of section 272C.3, subsection 2, paragraph "b", which licensees are required to report to the board pursuant to section 272C.9, subsection 2;

Sec. 28. Section 272C.5, subsection 2, paragraph c, Code 2001, is amended to read as follows:

c. Shall state whether the procedures are an alternative to or an addition to the procedures stated in sections 147.58 through 147.71, 148.6 through 148.9, 152.10 and 152.11, 153.23 through 153.30, 153.33, and 154A.23, 542B.22, ~~542C.23~~ 542D.11, 543B.35, 543B.36, 544B.16.

Sec. 29. Section 272C.6, subsection 6, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A board created pursuant to chapter 147, 154A, 155, 169, 542B, ~~542C~~ 542D, 543B, 543D, 544A, or 544B may charge a fee not to exceed seventy-five dollars for conducting a disciplinary hearing pursuant to this chapter which results in disciplinary action taken against the licensee by the board, and in addition to the fee, may recover from a licensee the costs for the following procedures and associated personnel:

Sec. 30. Section 272C.9, subsection 2, Code 2001, is amended to read as follows:

2. A licensee has a continuing duty to report to the licensing board by whom the person is licensed those acts or omissions specified by rule of the board pursuant to section 272C.4, subsection 6, when committed by another person licensed by the same licensing board. This subsection does not apply to licensees under chapter ~~542C~~ 542D when the observations are a result of participation in programs of practice review, peer review and quality review conducted by professional organizations of certified public accountants, for educational purposes and approved by the accountancy examining board.

Sec. 31. Section 502.102, subsection 11, paragraph c, subparagraphs (3) and (4), Code 2001, are amended to read as follows:

(3) An attorney licensed to practice law in this state, a certified public accountant licensed pursuant to chapter ~~542C~~ 542D, a professional engineer licensed pursuant to chapter

542B, or a certified teacher, if the person's performance of these services is solely incidental to the practice of the person's profession.

(4) An attorney licensed to practice law in this state or a certified public accountant licensed pursuant to chapter ~~542C~~ 542D who does not do any of the following:

Sec. 32. Section 522.1, subsection 2, Code 2001, is amended to read as follows:

2. A certified public accountant licensed pursuant to chapter ~~542C~~ 542D.

Sec. 33. Section 546.10, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. The Iowa accountancy examining board created pursuant to chapter ~~542C~~ 542D.

Sec. 34. Section 546.10, subsection 5, Code 2001, is amended to read as follows:

5. Fees collected under chapters 542B, ~~542C~~ 542D, 543B, 543D, 544A, and 544B shall be paid to the treasurer of state and credited to the general fund of the state. All expenses required in the discharge of the duties and responsibilities imposed upon the professional licensing division of the department of commerce, the administrator, and the licensing boards by the laws of this state shall be paid from moneys appropriated by the general assembly for those purposes. All fees deposited into the general fund of the state, as provided in this subsection, shall be subject to the requirements of section 8.60.

Sec. 35. Section 669.14, subsection 11, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Any claim for financial loss based upon an act or omission in financial regulation, including but not limited to examinations, inspections, audits, or other financial oversight responsibilities, pursuant to chapters 87, 203, 203A, 203C, 203D, 421B, 486, 487, and 490 through 553, excluding chapters 540A, 542B, ~~542C~~ 542D, 543B, 543C, 543D, 544A, and 544B.

Sec. 36. Chapter 542C, Code 2001, is repealed, effective July 1, 2002. However, this Act shall not be construed to invalidate or affect any action taken or any proceeding instituted under any law in effect prior to the effective date of this Act.

Sec. 37. CONSTRUCTION. This Act shall be construed to fully recognize a certificate, license, or permit issued pursuant to chapter 542C prior to July 1, 2002, as though issued under this Act.

Sec. 38. EFFECTIVE DATE. This Act takes effect July 1, 2002.

Approved April 19, 2001



**CHAPTER 56****REGISTERED VOTERS, ELIGIBLE ELECTORS, AND QUALIFIED VOTERS***H.F. 566*

**AN ACT** relating to the terms “registered voter”, “eligible elector”, and “qualified voter” for purposes of elections, voter registration, statutory petition requirements, absentee voting by armed forces, and drainage district elections.

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

Section 1. Section 28E.22, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The board of supervisors, or the city councils of a district composed only of cities, may, and upon receipt of a petition signed by eligible electors residing in the district equal in number to at least five percent of the registered voters ~~residing~~ in the district shall, submit a proposition to the electorate residing in the district at any general election or at a special election held throughout the district. The proposition shall provide for the establishment of a public safety fund and the levy of a tax on taxable property located in the district at rates not exceeding the rates specified in this section for the purpose of providing additional moneys for the operation of the district.

Sec. 2. Section 28E.28A, subsection 1, Code 2001, is amended to read as follows:

1. After five years from the date that a district is established, the public safety commission, upon receipt of a petition signed by eligible electors residing within the district equal in number to at least fifteen percent of the registered voters ~~residing~~ in the district, shall submit a proposition to the electorate of the district at the next general election to discontinue the annual levy for unified law enforcement services in the district. If a majority of the registered voters in each city and the unincorporated area of the county, as applicable, approve the proposition, the tax levy shall be discontinued.

Sec. 3. Section 39.22, subsection 1, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The election of the trustees and clerk of a township may be restored after approval of the appointment process under this subsection by a resolution of the board of supervisors submitting the question to the registered voters who are eligible to vote for township officers of the township at the next general election. If the proposition to restore the election process is approved by a majority of those voting on the question, the election of the township officers shall commence with the next primary and general elections. A resolution submitting the question of restoring the election of township officers at the next general election shall be adopted by the board of supervisors upon receipt of a petition of signed by eligible electors residing in the township equal in number to at least ten percent of the registered voters of a township. The initial terms of the trustees shall be determined by lot, one for two years, and two for four years. However, if a proposition to change the method of selecting township officers is adopted by the electorate, a resolution to change the method shall not be submitted to the electorate for four years.

Sec. 4. Section 53.37, Code 2001, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** For the purposes of this division, “qualified voter” means a person who is included within the term “armed forces of the United States” as described in this section, who would be qualified to register to vote under section 48A.5, subsection 2, except for residency, and who is not disqualified from registering to vote and voting under section 48A.6.

Sec. 5. Section 62.17, Code 2001, is amended to read as follows:

62.17 VOTERS REQUIRED TO TESTIFY.

The court may require any person called as a witness, who voted at such election, to answer touching the person's qualifications as a voter, and, if the person was not a qualified registered voter in the county where the person voted, then to answer for whom the person voted.

Sec. 6. Section 66.3, subsection 3, Code 2001, is amended to read as follows:

3. As to any other officer, by five ~~qualified electors~~ registered voters of the district, county, or municipality where the duties of the office are to be performed.

Sec. 7. Section 69.4, subsection 3, Code 2001, is amended to read as follows:

3. By senators and representatives in Congress, all officers elected by the qualified registered voters in the state or any district or division thereof larger than a county, or chosen by the general assembly, all judges of courts of record, all officers, trustees, inspectors, and members of all boards and commissions now or hereafter created under the laws of the state, and all persons filling any position of trust or profit in the state, for which no other provision is made, to the governor.

Sec. 8. Section 145A.6, Code 2001, is amended to read as follows:

145A.6 PETITION OF PROTEST.

The plans formulated for the area hospital shall be deemed approved unless, within sixty days after the third and final publication of the order, a petition protesting the proposed plan containing the signatures of at least five percent of the qualified registered voters of any political subdivision within the proposed merged area is filed with the respective officials of the protesting petitioners.

Sec. 9. Section 145A.7, Code 2001, is amended to read as follows:

145A.7 SPECIAL ELECTION.

When a protesting petition is received, the officials receiving the petition shall call a special election of all qualified registered voters of that political subdivision for the purpose of approving or rejecting the order setting out the proposed merger plan. The vote will be taken by ballot in the form provided by sections 49.43 to 49.47, and the election shall be initiated and held as provided in chapter 49. A majority vote of those qualified registered voters voting at said special election shall be sufficient to approve the order and thus include the political subdivision within the merged area.

Sec. 10. Section 176A.8, subsection 3, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The council shall also provide for the nomination by petition of candidates for election to membership on the extension council. A nominating petition shall be signed by at least twenty-five ~~registered voters~~ eligible electors of the extension district and shall be filed with the county commissioner of elections at least sixty-nine days before the date of the election.

Sec. 11. Section 256.11, subsection 10, paragraph b, Code 2001, is amended to read as follows:

b. In response to a petition filed with the director requesting such a committee visitation that is signed by eligible electors residing in the school district equal in number to at least twenty percent or more of the registered voters of a the school district.

Sec. 12. Section 275.12, subsection 1, Code 2001, is amended to read as follows:

1. A petition describing the boundaries, or accurately describing the area included therein by legal descriptions, of the proposed district, which boundaries or area described shall conform to plans developed or the petition shall request change of the plan, shall be filed with the area education agency administrator of the area education agency in which the greatest number of registered voters reside. However, the area education agency administrator shall not accept a petition if any of the school districts affected have approved the issu-

ance of general obligation bonds at an election pursuant to section 296.6 during the preceding six-month period. The petition shall be signed by ~~registered voters~~ eligible electors residing in each existing school district or portion affected equal in number to at least twenty percent of the number of registered voters in the school district or portion affected, or four hundred ~~registered voters~~ eligible electors, whichever is the smaller number.

Sec. 13. Section 275.51, unnumbered paragraph 1, Code 2001, is amended to read as follows:

As an alternative to school district reorganization prescribed in this chapter, the board of directors of a school district may establish a school district dissolution commission to prepare a proposal of dissolution of the school district and attachment of all of the school district to one or more contiguous school districts and to include in the proposal a division of the assets and liabilities of the dissolving school district. A school district dissolution commission shall be established by the board of directors of a school district if a dissolution proposal has been prepared by ~~registered voters~~ eligible electors who reside within the district. The proposal must contain the names of the proposed members of the commission and be accompanied by a petition which has been signed by eligible electors residing in the school district equal in number to at least twenty percent of the registered voters in the school district.

Sec. 14. Section 298.18, unnumbered paragraph 4, Code 2001, is amended to read as follows:

The amount estimated and certified to apply on principal and interest for any one year may exceed two dollars and seventy cents per thousand dollars of assessed value by the amount approved by the voters of the school corporation, but not exceeding four dollars and five cents per thousand of the assessed value of the taxable property within any school corporation, provided that the ~~qualified registered~~ voters of such school corporation have first approved such increased amount at a special election, which may be held at the same time as the regular school election. The proposition submitted to the voters at such special election shall be in substantially the following form:

Sec. 15. Section 301.24, Code 2001, is amended to read as follows:

#### 301.24 PETITION — ELECTION.

Whenever a petition signed by eligible electors residing in the school district equal in number to at least ten percent of the ~~qualified registered~~ voters in the school district, to be determined by the school board of any school district, shall be filed with the secretary thirty days or more before the regular election, asking that the question of providing free textbooks for the use of pupils in the public schools thereof be submitted to the voters at the next regular election, the secretary shall cause notice of such proposition to be given in the notice of such election.

Sec. 16. Section 303.42, unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~Ten~~ Eligible electors residing within the limits of a proposed land use district equal in number to at least ten percent or more of the ~~qualified registered~~ voters residing within the limits of a proposed land use district may file a petition in the office of the county auditor of the county in which the proposed land use district, or its major portion, is located, requesting that there be submitted to the ~~qualified registered~~ voters of the proposed district the question of whether the territory within the boundaries of the proposed district shall be organized as a land use district under this subchapter. The petition shall be addressed to the board of supervisors of the county where it is filed and shall set forth the following:

Sec. 17. Section 303.45, Code 2001, is amended to read as follows:

#### 303.45 HEARING OF PETITION AND ORDER.

The board of supervisors to whom the petition is addressed shall preside at the hearing

provided for in section 303.44 and shall continue the hearing in session, with adjournments from day to day, if necessary, until completed, without being required to give any further notice of it. Proof of the residence and qualification of the petitioners as ~~qualified voters~~ eligible electors shall be made by affidavit or otherwise as the board may direct. The board shall consider the boundaries of the proposed land use district, whether they shall be as described in the petition or otherwise, and for that purpose may alter and amend the petition and limit or change the boundaries of the proposed district as stated in the petition. The boundaries of a proposed district shall not be changed to include property not included in the original petition and published notice until the owner of that property is given notice as on the original hearing. All persons in the proposed district shall have an opportunity to be heard regarding the location and boundaries of the proposed district and to make suggestions regarding them. The board of supervisors, after hearing the statements, evidence, and suggestions made and offered at the hearing, shall enter an order fixing the boundaries of the proposed district and directing that an election be held for the purpose of submitting to the ~~qualified~~ registered voters residing within the boundaries of the proposed district the question of organization and establishment of the proposed land use district as determined by the board of supervisors. The order shall fix a date for the election not more than sixty days after the date of the order, establish voting precincts within the proposed district and define their boundaries, and specify the polling places which in the board's judgment will best serve the convenience of the voters, and shall appoint from residents of the proposed district three judges and two clerks of election for each voting precinct established.

Sec. 18. Section 303.47, Code 2001, is amended to read as follows:

303.47 ELECTION.

Each ~~qualified~~ registered voter residing within the proposed district may cast a ballot at the election and a person shall not vote in any precinct but that of the person's residence. Ballots at the election shall be in substantially the following form:

For Land Use District \_\_\_\_\_

Against Land Use District \_\_\_\_\_

PARAGRAPH DIVIDED. The election shall be conducted in the manner provided by law for general elections and the ballots so cast shall be issued, received, returned, and canvassed in the same manner and by the same officers, in the county whose board of supervisors is vested with jurisdiction of the proceedings, as provided by law in the case of ballots cast for county officers, except as modified by this subchapter. The board of supervisors shall cause a statement of the result of the election to be spread upon the records of the county auditor. If a majority of the votes cast upon the question of incorporation of the proposed district is in favor of the proposed district, the proposed district becomes an organized district under this subchapter.

Sec. 19. Section 303.52A, Code 2001, is amended to read as follows:

303.52A INCLUSION OR EXCLUSION OF LAND.

If at least sixty percent of the ~~qualified electors~~ registered voters of a land area petition the board of supervisors for inclusion in or exclusion from a land use district, the board shall review the petition and determine if the petition contains a sufficient number of ~~qualified electors~~ registered voters residing in the affected land area and, if the petition is sufficient, submit it to the board of trustees of the land use district. The land area to be included in or excluded from the land use district must be contiguous to the land use district. If two thirds of the membership of the board of trustees vote in favor of the petition, the petition shall be granted and the land area included in or excluded from the district.

Sec. 20. Section 330A.17, Code 2001, is amended to read as follows:

330A.17 STATUTE COMPLETE AND ADDITIONAL AUTHORITY.

The powers conferred by this chapter shall be in addition and supplemental to any other law and this chapter shall not be construed so as to repeal any other law, except to the extent of any conflict between the provisions of this chapter and the provisions of any other law, in

which event the provisions of this chapter shall be controlling and shall, to the extent of any such conflict, supersede the provisions of any other law. This chapter is intended to and shall provide an alternative and complete method for the exercise of the powers granted by this chapter, and the aviation facilities authorized by this chapter may be constructed, acquired, or improved and bonds or other obligations issued pursuant to this chapter upon compliance with the provisions of this chapter without regard to or necessity for compliance with the limitations or restrictions contained in any other law. No approval of the ~~qualified electors~~ registered voters or qualified freeholders of the state, or of any other political subdivision or taxing unit or agency thereof, or of the member municipalities shall be required for the issuance of any bonds by an authority pursuant to this chapter.

Sec. 21. Section 331.205, subsection 1, Code 2001, is amended to read as follows:

1. In a county where there is a city operating under the commission form of government with a population of more than seventy-five thousand, the petition to increase or reduce the number of members of the board must contain signatures of eligible electors residing inside the county and outside of the corporate limits of the city equal in number to at least ten percent of the registered voters residing within the county and outside of the corporate limits of the city and signatures of eligible electors residing within the city equal in number to at least ten percent of the registered voters residing within the city.

Sec. 22. Section 331.441, subsection 2, paragraph b, subparagraph (7), Code 2001, is amended to read as follows:

(7) Enlargement and improvement of a county hospital acquired and operated under chapter 347A, subject to a maximum of two percent of the assessed value of the taxable property in the county. However, notice of the proposed bond issue shall be published once each week for two consecutive weeks and if, within twenty days following the date of the first publication, a petition requesting an election on the proposal and signed by ~~qualified voters~~ eligible electors of the county equal in number to at least twenty percent of the votes cast at the preceding election for governor is filed with the county auditor, the proposal is subject to the election requirements in section 331.442, subsections 2, 3 and 4 for general county purpose bonds.

Sec. 23. Section 331.441, subsection 2, paragraph b, subparagraph (12), subparagraph subdivision (b), Code 2001, is amended to read as follows:

(b) General obligation bonds for the purposes described in this subparagraph are subject to an election held in the manner provided in section 331.442, subsections 1 through 4, if not later than fifteen days following the action by the county board of supervisors, ~~eligible voters~~ electors file a petition with the county commissioner of elections asking that the question of issuing the bonds be submitted to the registered voters of the special service area tax district. The petition must be signed by eligible electors equal in number to at least five percent of the registered voters residing in the special service area tax district. If the petition is duly filed within the fifteen days, the board of supervisors shall either adopt a resolution declaring that the proposal to issue the bonds is abandoned, or direct the county commissioner of elections to call a special election within a special service area tax district upon the question of issuing the bonds.

Sec. 24. Section 331.461, subsection 2, paragraph d, Code 2001, is amended to read as follows:

d. The equipment, enlargement, and improvement of a county public hospital previously established and operating under chapter 347, including acquisition of the necessary lands, rights of way, and other property, subject to approval by the board of hospital trustees. However, notice of the proposed bond issue shall be published at least once each week for two consecutive weeks and if, within thirty days following the date of the first publication, a petition requesting an election on the proposal and signed by ~~qualified voters~~ eligible electors of the county equal to at least twenty percent of the votes cast at the preceding election for

governor is filed with the county auditor, the proposal is subject to the election requirements in section 331.442, subsections 2, 3 and 4, for general county purpose bonds. Bonds issued under this paragraph shall mature in not more than thirty years from date of issuance.

Sec. 25. Section 336.18, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. Contracts shall provide for the amount to be contributed. They may, by mutual consent of the contracting parties, be terminated at any time. They may also be terminated by a majority of the voters represented by either of the contracting parties, voting on a proposition to terminate which shall be submitted by the governing body upon a written petition of ~~qualified voters~~ eligible electors in a number not less than five percent of those who voted in the area for president of the United States or governor at the last general election.

Sec. 26. Section 336.18, subsection 4, paragraph a, Code 2001, is amended to read as follows:

a. ~~Qualified~~ Eligible electors of that part of any county outside of cities in a number of not less than twenty-five percent of those in the area who voted for president of the United States or governor at the last general election may petition the board of supervisors to submit the proposition of requiring the board to provide library service for them and their area by contract as provided by this section.

Sec. 27. Section 347.23, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Any hospital organized and existing as a city hospital may become a county hospital organized and managed as provided for in this chapter, upon a proposition for such purpose being submitted to and approved by a majority of the electors of both the city in which such hospital is located, and of the county under whose management it is proposed that such hospital be placed, at any general or special election called for such purpose. The proposition shall be placed upon the ballot by the board of supervisors when requested by a petition ~~therefor~~ signed by ~~qualified~~ eligible electors of the county equal in number to five percent of the votes cast for president of the United States or governor, as the case may be, at the last general election. The proposition may be submitted at the next general election or at a special election called ~~therefor~~ for that purpose. Upon the approval of the proposition the hospital, its assets and liabilities, will become the property of the county and this chapter will govern its future management. The question shall be submitted in substantially the following form: "Shall the municipal hospital of ....., Iowa, be transferred to and become the property of, and be managed by the county of ....., Iowa?"

Sec. 28. Section 347.23A, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The proposition shall be placed upon the ballot by the board of supervisors if requested by the hospital's board of trustees or governing commission and the request is endorsed by a petition for this purpose signed by ~~qualified~~ eligible electors of the county equal in number to five percent of the votes cast for president of the United States or governor, as the case may be, at the last general election. Upon the approval of the proposition the hospital, its assets and liabilities, shall become the property of the county and this chapter shall govern its future management.

Sec. 29. Section 359.8, Code 2001, is amended to read as follows:

359.8 DIVISION — EFFECT.

If the petition is signed by a majority of the ~~qualified electors~~ registered voters of the township residing without the corporate limits of the city, the board of supervisors shall divide the township into two townships, as petitioned; but, except for election purposes, including the appointment of precinct election officials rendered necessary by the change, the division shall not take effect until the first day of January following the next general election which is not a Sunday or a legal holiday.

Sec. 30. Section 359.17, Code 2001, is amended to read as follows:

359.17 TRUSTEES — DUTIES — MEETINGS.

The board of township trustees in each township shall consist of three ~~qualified electors~~ registered voters of the township. The trustees shall act as fence viewers and shall perform other duties assigned them by law. The board of trustees shall meet not less than two times a year. At least one of the meetings shall be scheduled to meet the requirements of section 359.49.

Sec. 31. Section 368.11, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A petition for incorporation, discontinuance, or boundary adjustment may be filed with the board by a city council, a county board of supervisors, a regional planning authority, or five percent of the ~~qualified electors~~ registered voters of a city or territory involved in the proposal. Notice of the filing, including a copy of the petition, must be served upon the council of each city for which a discontinuance or boundary adjustment is proposed, the board of supervisors for each county which contains a portion of a city to be discontinued or territory to be incorporated, annexed or severed, the council of a city if an incorporation includes territory within the city's urbanized area, and any regional planning authority for the area involved.

Sec. 32. Section 384.19, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Within a period of ten days after the final date that a budget or amended budget may be certified to the county auditor, persons affected by the budget may file a written protest with the county auditor, specifying their objections to the budget or any part of it. A protest must be signed by ~~qualified electors~~ registered voters equal in number to one-fourth of one percent of the votes cast for governor in the last preceding general election in the city, but the number shall not be less than ten persons and the number need not be more than one hundred persons.

Sec. 33. Section 384.84A, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If, before the date fixed for taking action to authorize the issuance of revenue bonds for the storm water drainage construction project, a petition signed by eligible electors residing within the city equal in number to at least three percent of the registered voters of the city, asking that the question of issuing revenue bonds for the storm water drainage construction project be submitted to the registered voters of the city, the council, by resolution, shall declare the project abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds for the storm water drainage construction project if the cost of the project and population of the city meet one of the following criteria:

Sec. 34. Section 422A.2, subsection 4, paragraph f, unnumbered paragraph 2, Code 2001, is amended to read as follows:

If at any time before the date fixed for taking action for the issuance of the bonds, a petition signed by eligible electors residing in the city or the unincorporated area equal in number to at least three percent of the registered voters of the city or unincorporated area, asking that the question of issuing the bonds be submitted to the registered voters of the city or unincorporated area, the council or board of supervisors acting on behalf of an unincorporated area shall either by resolution declare the proposal to issue the bonds to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds.

Sec. 35. Section 422B.12, subsection 4, paragraph a, unnumbered paragraph 2, Code 2001, is amended to read as follows:

If at any time before the date fixed for taking action for the issuance of the bonds, a petition signed by eligible electors residing within the jurisdiction seeking to issue the bonds in a

number equal to at least three percent of the registered voters of the bond issuer is filed, asking that the question of issuing the bonds be submitted to the registered voters, the governing body shall either by resolution declare the proposal to issue the bonds to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds. The proposition of issuing bonds under this subsection is not approved unless the vote in favor of the proposition is equal to at least sixty percent of the vote cast. If a petition is not filed, or if a petition is filed and the proposition of issuing the bonds is approved at an election, the governing body acting on behalf of the issuer may proceed with the authorization and issuance of the bonds. Bonds may be issued for the purpose of refunding outstanding and previously issued bonds under this subsection without otherwise complying with the provisions of this subsection.

Sec. 36. Section 468.514, Code 2001, is amended to read as follows:  
468.514 BALLOTS — PETITION FOR PRINTED BALLOTS.

Candidates for drainage district trustee shall have their names placed on printed ballots provided a petition therefor is signed by ten ~~qualified electors~~ voters of the district and filed with the clerk of the board at least twenty-five days but not more than sixty-five days before the election. Space shall also be provided on the ballot for write-in votes.

Sec. 37. Section 602.1216, Code 2001, is amended to read as follows:  
602.1216 RETENTION OF CLERKS OF THE DISTRICT COURT.

A clerk of the district court shall stand for retention in office, in the county of the clerk's office, upon the petition of ~~signed by eligible electors~~ residing in the county equal in number to at least ten percent of all ~~qualified electors~~ registered voters in the county to the state commissioner of elections, at the judicial election in 1988 and every four years thereafter, under sections 46.17 through 46.24. The petition shall be filed in the office of the state commissioner not later than one hundred twenty days before the general election. A clerk who is not retained in office is ineligible to serve as clerk, in the county in which the clerk was not retained, for the four years following the retention vote.

Sec. 38. Section 722.7, subsection 9, Code 2001, is amended to read as follows:  
9. Refuses or rejects the vote of any ~~qualified~~ registered voter.

Approved April 19, 2001

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## CHAPTER 57

### ADOPTIONS — INTERSTATE LEGAL RISK PLACEMENTS AND STANDBY PROCEDURES

H.F. 567

**AN ACT** relating to adoption including providing for standby adoptions and providing for a legal risk waiver in interstate adoptions.

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

Section 1. NEW SECTION. 232.158A LEGAL RISK PLACEMENT.

1. Notwithstanding any provision of the interstate compact on the placement of children to the contrary, the department of human services shall permit the legal risk placement of a child under the interstate compact on the placement of children, if the prospective adoptive parent provides a legal risk statement, in writing, acknowledging all of the following:



- a. That the placement is a legal risk placement.
- b. That the court of the party state of the sending agency retains jurisdiction over the child for purposes of the termination of the parental rights of the biological parents.
- c. That if termination of parental rights cannot be accomplished in accordance with applicable laws, the child shall be promptly returned to the party state of the sending agency to be returned to the child's biological parent or placed as deemed appropriate by a court of the party state of the sending agency.
- d. That the prospective adoptive parent assumes full legal, financial, and other risks associated with the legal risk placement and that the prospective adoptive parent agrees to hold the department of human services harmless for any disruption or failure of the placement.
- e. That the prospective adoptive parent shall provide support and medical and other appropriate care to the child pending the termination of parental rights of the biological parents and shall assume liability for all costs associated with the return of the child to the party state of the sending agency if the placement is disrupted or fails.

2. Any written legal risk statement utilized in establishing a legal risk placement shall, at a minimum, state all of the information required under subsection 1, shall be signed by any prospective adoptive parent, and shall be notarized. The legal risk statement shall also contain the following notice printed in clearly legible type: If termination of parental rights is not accomplished and return of the child to the biological parent is required, the prospective adoptive parents are encouraged to seek mental health counseling to address any resulting psychological or family problems.

3. For the purposes of this section, "legal risk placement" means the placement of a child, who is to be adopted, with a prospective adoptive parent prior to the termination of parental rights of the biological parents, under which the prospective adoptive parent assumes the risk that, if the parental rights of the biological parents are not terminated, the child shall be returned to the biological parents or placed as deemed appropriate by a court of the party state of the sending agency, and under which the prospective adoptive parent assumes other risks and liabilities specified in a written agreement.

Sec. 2. Section 600.3, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. A termination of parental rights order is not required prior to the filing of an adoption petition if the adoption is a standby adoption as defined in section 600.14A.

Sec. 3. Section 600.6, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5. In the case of a standby adoption as defined in section 600.14A, a form completed by the terminally ill parent consenting to termination of parental rights and adoption of the child by a person or persons specified in the consent form, effective at a future date when the terminally ill parent of the child has died or requests that a final adoption decree be issued.

Sec. 4. Section 600.13, subsection 1, Code 2001, is amended by adding the following new paragraph after paragraph b and relettering the subsequent paragraph:

NEW PARAGRAPH. bb. Issue a standby adoption decree pursuant to section 600.14A.

Sec. 5. NEW SECTION. 600.14A STANDBY ADOPTION.

1. As used in this section:

a. "Standby adoption" means an adoption in which a terminally ill parent consents to termination of parental rights and the issuance of a final adoption decree effective upon the occurrence of a future event, which is either the death of the terminally ill parent or the request of the parent for the issuance of a final adoption decree.

b. "Terminally ill parent" means an individual who has a medical prognosis by a licensed physician that the individual has an incurable and irreversible condition which will lead to death.

2. A terminally ill parent may consent to termination of parental rights and adoption of a child under a standby adoption if the other parent of the child is not living or the other parent has previously had the parent's parental rights terminated.

3. A person who meets the qualifications to file an adoption petition pursuant to section 600.4 may file a petition for standby adoption. A standby adoption shall comply with the requirements of sections 600.7 through 600.12. However, the court may order that the completion of placement investigations and reports be expedited based on the circumstances of a particular case. The court may waive the minimum residence period requirement pursuant to section 600.10 to expedite the standby adoption if necessary.

4. If a consent to a standby adoption is attached to an adoption petition pursuant to section 600.6, the court determines that the requirements of this chapter relative to a standby adoption are met, and the court determines that the standby adoption is in the best interest of the child to be adopted, the court shall issue a standby adoption decree or a final adoption decree. However, the terminally ill parent's parental rights shall not be terminated and the standby adoption shall not be finalized until the death of the terminally ill parent or the request of the terminally ill parent for issuance of the final adoption decree.

5. A standby adoption decree shall become final upon notice of the death of the terminally ill parent or upon the terminally ill parent's request that a final adoption decree be issued. If the court determines at the time of the notice or request that the standby adoption is still in the best interest of the child, the court shall issue a final adoption decree.

Approved April 20, 2001

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## CHAPTER 58

### PUBLIC HEALTH REGULATION

S.F. 433

**AN ACT** relating to certain programs and public health issues under the purview of the Iowa department of public health, and providing a penalty.

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

Section 1. Section 124.204, subsection 5, Code 2001, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** c. Gamma-hydroxybutyric acid. Some trade or other names: GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate.

Sec. 2. Section 124.208, subsection 3, Code 2001, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** m. Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal Food, Drug, and Cosmetic Act.

Sec. 3. Section 135.11, subsection 25, Code 2001, is amended to read as follows:

25. Establish ad hoc and advisory committees to the director in areas where technical expertise is not otherwise readily available. Members may be compensated for their actual and necessary expenses incurred in the performance of their duties. To encourage health consumer participation, public members may also receive a per diem as specified in section

7E.6 if funds are available and the per diem is determined to be appropriate by the director. Expense moneys paid to the members shall be paid from funds appropriated to the department. A majority of the members of such a committee constitutes a quorum.

Sec. 4. Section 135.105C, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A person who violates this section is subject to a civil penalty not to exceed five thousand dollars for each offense.

Sec. 5. Section 135I.1, subsection 3, Code 2001, is amended to read as follows:

3. "Spa" means a bathing facility such as a hot tub or whirlpool designed for recreational or therapeutic use. ~~However, "spa" does not include a facility used under direct supervision of qualified medical personnel.~~

Sec. 6. Section 135I.2, Code 2001, is amended to read as follows:

135I.2 APPLICABILITY.

This chapter applies to all swimming pools and spas owned or operated by local or state government, or commercial interests or private entities including, but not limited to, facilities operated by cities, counties, public or private school corporations, hotels, motels, camps, apartments, condominiums, and health or country clubs. This chapter does not apply to facilities intended for single family use or to a swimming pool or spa operated by a homeowners' association representing seventy-two or fewer dwelling units if the association's bylaws, which also apply to a rental agreement relative to any of the dwelling units, include an exemption from the requirements of this chapter, provide for inspection of the swimming pool or spa by an entity other than the department or local board of health, and assume any liability associated with operation of the swimming pool or spa. This chapter does not apply to a swimming pool or spa used exclusively for therapy under the direct supervision of qualified medical personnel. To avoid duplication and promote coordination of inspection activities, the department may enter into agreements pursuant to chapter 28E with a local board of health to provide for inspection and enforcement in accordance with this chapter.

Sec. 7. Section 147.74, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 20A. A registered nurse licensed under chapter 152 may use the words "registered nurse" or the letters "R.N." after the person's name. A licensed practical nurse licensed under chapter 152 may use the words "licensed practical nurse" or the letters "L.P.N." after the person's name.

Sec. 8. Section 147.80, subsection 16, Code 2001, is amended to read as follows:

16. License to practice barbering on the basis of an examination given by the board of barber examiners, license to practice barbering under a reciprocal agreement, renewal of a license to practice barbering, annual inspection by the department of inspections and appeals of barber school and annual inspection of barber shop, an original barber school license, renewal of a barber school license, transfer of license upon change of ownership of a barber shop or barber school, inspection by the department of inspections and appeals and an original barber shop license, renewal of a barber shop license, original barber school instructor's license, renewal of a barber school instructor's license, ~~original barber assistant's license, renewal of a barber assistant's license.~~

Sec. 9. Section 147.91, Code 2001, is amended to read as follows:

147.91 PUBLICATIONS.

The department shall have ~~printed in pamphlet form~~ available for each profession the following ~~matter which is pertinent to the particular profession for which such pamphlet is published~~ information:

1. The law regulating the practice of the profession.

2. The rules of the Iowa department of public health and the department of inspections and appeals relative to licenses.

3. The rules of the examining board relative to examinations.

Such ~~pamphlet~~ information shall be supplied to any person applying for the same. The department may, to the extent feasible, make the information described in this section available by electronic means, including, but not limited to, access to the documents through the internet.

Sec. 10. Section 147A.8, subsection 2, paragraph d, Code 2001, is amended to read as follows:

d. Employed by or assigned to a hospital or other entity in which health care is ordinarily provided only when under the direct supervision of a physician, as a member of an authorized ambulance, rescue, or first response service, or in an individual capacity, to perform nonlifesaving procedures for which those individuals have been ~~trained~~ certified and are designated in a written job description. Such procedures may be performed after the patient is observed by and when the emergency medical care provider is under the supervision of the physician, physician assistant, or registered nurse, including when the registered nurse is not acting in the capacity of a physician designee, and where the procedure may be immediately abandoned without risk to the patient.

Sec. 11. Section 154.6, Code 2001, is amended to read as follows:

#### 154.6 EXPIRATION AND RENEWAL OF LICENSES.

Every license to practice optometry shall expire in multiyear intervals as determined by the board. Application for renewal of such license shall be made in writing to the Iowa department of public health at least thirty days prior to the expiration date, accompanied by the required renewal fee and ~~the affidavit of the licensee or other proof satisfactory to the department and to the Iowa state board of optometry examiners, that the applicant has annually attended, since the issuance of the last license to the applicant, an educational program or clinic as conducted by the Iowa Optometric Association, or its equivalent, for a period of at least two days. The attendance requirement at the educational program or clinic shall not be conditioned upon membership in the Iowa Optometric Association. Nonmembers shall be admitted to the annual educational program or clinic upon payment of their pro rata share of the cost. In lieu of attendance at the annual educational program or clinic, it shall be the duty of the board of optometry examiners to recognize and approve attendance at local optometric study group meetings as shall, in the judgment of the board, constitute an equivalent to attendance at the annual educational program of the association~~ the licensee shall submit evidence of attendance of continuing education in this field.

Sec. 12. Section 154.7, Code 2001, is amended to read as follows:

#### 154.7 NOTICE OF EXPIRATION.

Notice of expiration of the license to practice optometry shall be given by the Iowa department of public health to all certificate holders by mailing the notice to the last known address of such licensee at least ~~seventy-five~~ sixty days prior to the expiration date, and the notice shall contain a statement of the educational program attendance requirement and the amount of legal fee required as a condition to the renewal of the license. Subject to the provisions of this chapter, the license shall be renewed without examination.

Sec. 13. Section 154A.14, Code 2001, is amended to read as follows:

#### 154A.14 RECIPROCITY.

If the board determines that another state or jurisdiction has requirements equivalent to or higher than those provided in this chapter, the department may issue a license by reciprocity to applicants who hold valid certificates or licenses to ~~deal in~~ dispense and fit hearing aids in the other state or jurisdiction. An applicant for a license by reciprocity is not required to take a qualifying examination, but is required to pay the license fee as provided in section 154A.17. The holder of a license of reciprocity is registered in the same manner as the

holder of a regular license. Fees, grounds for renewal, and procedures for the suspension and revocation of license by reciprocity are the same as for a regular license.

Sec. 14. Section 158.9, unnumbered paragraph 3, Code 2001, is amended by striking the unnumbered paragraph.

Sec. 15. Section 714.16, subsection 1, paragraph e, Code 2001, is amended to read as follows:

e. "Contaminant" means any particulate, chemical, microbiological, or radiological substance in water which has a potentially adverse health effect and for which a maximum contaminant level (MCL) or treatment technique requirement or an action level established in lieu of a maximum contaminant level (MCL), has been specified in the national primary drinking water regulations.

Sec. 16. Section 714.16, subsection 2, paragraph h, subparagraph (3), subparagraph subdivision (c), Code 2001, is amended to read as follows:

(c) Performance and test data including, but not limited to, the list of contaminants certified to be reduced by the water treatment system; the test influent concentration level of each contaminant or surrogate for that contaminant; the percentage reduction or effluent concentration of each contaminant or surrogate; where applicable, the maximum contaminant level (MCL) or a treatment technique requirement or an action level established in lieu of a maximum contaminant level (MCL) specified in the national primary drinking water regulations; where applicable, the approximate capacity in gallons; where applicable, the period of time during which the unit is effective in reducing contaminants based upon the contaminant or surrogate influent concentrations used for the performance tests; where applicable, the flow rate, pressure, and operational temperature of the water during the performance tests.

Sec. 17. Section 158.11, Code 2001, is repealed.

Sec. 18. Sections 154A.1, 154A.2, 154A.4, 154A.9, 154A.13, 154A.18, 154A.19, 154A.20, 154A.21, 154A.23, 154A.24, and 154A.25, Code 2001, are amended by striking the word "dealer" or "dealers" and inserting the word "dispenser" or "dispensers".

Approved April 23, 2001

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## CHAPTER 59

### INDIAN HOUSING AUTHORITY PROPERTY — TAX EXEMPTION

S.F. 449

**AN ACT** exempting property owned and operated by an Indian housing authority from property tax and including an effective date.

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

Section 1. Section 427.1, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 33. Property owned and operated by an Indian housing authority, as defined in 24 C.F.R. § 950.102, created under Indian law, if a cooperative agreement has been made with the local governing body agreeing to the exemption. The exemption in this subsection is subject to the provisions of subsection 14.

For purposes of this subsection:

a. "Indian law" means the code of an Indian tribe recognized as eligible for services provided to Indians by the United States secretary of the interior.

b. "Local governing body" means the county board of supervisors if the property is located outside an incorporated city or the governing body of the city in which the property is located.

Sec. 2. IMPLEMENTATION OF ACT. Section 25B.7 does not apply to the property tax exemption provided in section 1 of this Act.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 23, 2001

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**CHAPTER 60**  
ENERGY LOAN FUND —  
ELIGIBLE IMPROVEMENTS  
S.F. 462

**AN ACT** relating to the energy loan fund administered by the department of natural resources.

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

Section 1. Section 473.20, subsection 1, Code 2001, is amended to read as follows:

1. The department may make loans to the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations for implementation of energy conservation measures identified in a comprehensive engineering analysis. Loans shall ~~not be made for energy conservation measures that require more than an average of six years for the state, state agency, political subdivision of the state, school district, area education agency, community college, or nonprofit organization as an entity to recoup the actual or projected cost of construction and acquisition of the improvements; and cost of the engineering plans and specifications~~ be made for all cost effective energy management improvements. For the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations to receive a loan from the fund, the department shall require completion of an energy management plan including an energy audit and a comprehensive engineering analysis. The department shall approve loans made under this section.

Approved April 23, 2001

**CHAPTER 61**  
**ECONOMIC AND COMMUNITY DEVELOPMENT AND**  
**JOB TRAINING PROGRAMS**

*H.F. 384*

**AN ACT** relating to the elimination of certain economic development and job training related programs and certain duties of the department of economic development.

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

Section 1. Section 15.106, subsection 9, Code 2001, is amended by striking the subsection.

Sec. 2. Section 15.108, subsection 1, paragraphs c and d, Code 2001, are amended by striking the paragraphs.

Sec. 3. Section 15.108, subsection 4, paragraph a, Code 2001, is amended by striking the paragraph.

Sec. 4. Section 15.108, subsection 7, paragraph c, subparagraph (5), Code 2001, is amended by striking the subparagraph.

Sec. 5. Section 15.108, subsection 7, paragraph i, Code 2001, is amended by striking the paragraph.

Sec. 6. Section 15.246, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The department shall establish and administer a case management program, contingent upon the availability of funds authorized for the program, and conducted in coordination with ~~the job training partnership program~~, the self-employment loan program, and other state or federal programs providing financial or technical assistance administered by the department. The case management program shall assist in furnishing information about available assistance to clients seeking to establish or expand small business ventures, furnishing information about available financial or technical assistance, evaluating small business venture proposals, completing viable business start-up or expansion plans, and completing applications for financial or technical assistance under the programs administered by the department. As used in this section, "client" means a low-income person eligible for assistance under the self-employment loan program established in section 15.241.

Sec. 7. Section 15.251, subsection 1, Code 2001, is amended by striking the subsection.

Sec. 8. Section 15E.120, subsection 7, Code 2001, is amended by striking the subsection.

Sec. 9. Section 15E.143, subsection 1, paragraph c, Code 2001, is amended by striking the paragraph.

Sec. 10. Section 15E.143, subsection 2, Code 2001, is amended to read as follows:

2. The director of the department, or the director's designee, shall serve as chairperson of the board, ~~and the president of the Iowa seed capital corporation, or the president's designee, shall serve as vice chairperson of the board.~~

Sec. 11. Section 16.100, subsection 2, paragraph d, Code 2001, is amended by striking the paragraph.

Sec. 12. Section 68B.35, subsection 2, paragraph e, Code 2001, is amended to read as follows:

e. Members of the banking board, the ethics and campaign disclosure board, the credit

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

Sec. 13. Section 84A.5, subsection 6, paragraph e, Code 2001, is amended by striking the paragraph.

Sec. 14. Section 96.11, subsection 6, paragraph c, subparagraph (8), Code 2001, is amended by striking the subparagraph.

Sec. 15. Section 97B.1A, subsection 8, paragraph a, subparagraph (6), Code 2001, is amended by striking the subparagraph.

Sec. 16. Section 241.3, subsection 2, Code 2001, is amended to read as follows:

2. The department shall consult and cooperate with the department of workforce development, the United States commissioner of social security administration, the division of the status of women of the department of human rights, ~~the representative of the administrative agency administering the Job Training Partnership Act,~~ the department of education, and other persons in the executive branch of the state government as the department considers appropriate to facilitate the coordination of multipurpose service programs established under this chapter with existing programs of a similar nature.

Sec. 17. Section 499A.104, subsection 4, paragraph b, subparagraph (5), Code 2001, is amended to read as follows:

(5) Construction training program schedule for partners. ~~The program shall involve, to the greatest extent possible, persons participating as dislocated workers under the federal Job Training Partnership Act as provided in section 7B-1.~~ If a contract is executed with a person to perform skilled labor or to supervise skilled work, the person must be certified by an organization recognized as representing a membership of persons with common skills.

Sec. 18. Chapter 7B, Code 2001, is repealed.

Sec. 19. Sections 15.111, 15.240, 15.261, 15.262, 15.263, 15.264, 15.265, 15.266, 15.267, 15.268, 15.281, 15.282, 15.283, 15.284, 15.285, 15.286, 15.286A, 15.287, 15.288, 15E.25, 15E.26, 15E.27, 15E.28, 15E.29, 15E.81, 15E.82, 15E.83, 15E.84, 15E.85, 15E.86,<sup>1</sup> 15E.87, 15E.88, 15E.89, 15E.90, 15E.91, 15E.92, 15E.93, 15E.94, 15E.106, 15E.107, 15E.108, 15E.169, 15E.170, 15E.171, 15E.181, 15E.182, 15E.183, 15E.184, 16.107, 16.141, 16.142, 16.143, and 231.53, Code 2001, are repealed.

Approved April 23, 2001

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<sup>1</sup> According to enrolled Act



**CHAPTER 62****SCHOOL BOARD DUTIES — SUSPENSION OF PRACTITIONERS***H.F. 389*

**AN ACT** relating to the duties of the board of directors of a school district, including those related to the suspension of a practitioner by the board of directors of a school district.

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

Section 1. Section 279.16, unnumbered paragraphs 6 and 10, Code 2001, are amended to read as follows:

If the teacher fails to timely request a private hearing or does not appear at the private hearing, the board may proceed and make a determination upon the superintendent's recommendation. If the teacher fails to timely file a request for a private hearing, the determination shall be not later than May 31. If the teacher fails to appear at the private hearing, the determination shall be not later than five days after the scheduled date for the private hearing. The board shall convene in open session and by roll call vote determine the termination or continuance of the teacher's contract, and, if the board votes to continue the teacher's contract, whether to suspend the teacher with or without pay for a period specified by the board.

When the board has reached a decision, opinion, or conclusion, it shall convene in open meeting and by roll call vote determine the continuance or discontinuance of the teacher's contract, and, if the board votes to continue the teacher's contract, whether to suspend the teacher with or without pay for a period specified by the board. The record of the private conference and findings of fact and exceptions shall be exempt from the provisions of chapter 22. The secretary of the board shall immediately mail notice of the board's action to the teacher.

Sec. 2. Section 279.24, unnumbered paragraphs 8, 11, and 13, Code 2001, are amended to read as follows:

Within five days after receipt of the written notice that the school board has voted to consider termination of the contract, the administrator may request in writing to the secretary of the school board that the notification be forwarded to the board of educational examiners along with a request that the board of educational examiners submit a list of five qualified administrative law judges to the parties. Within three days from receipt of the list the parties shall select an administrative law judge by alternately removing a name from the list until only one name remains. The person whose name remains shall be the administrative law judge. The parties shall determine by lot which party shall remove the first name from the list. The hearing shall be held no sooner than ten days and not later than thirty days following the administrator's request unless the parties otherwise agree. If the administrator does not request a hearing, the school board, not later than May 31, may determine the continuance or discontinuance of the contract, and, if the board determines to continue the administrator's contract, whether to suspend the administrator with or without pay for a period specified by the board. School board action shall be by majority roll call vote entered on the minutes of the meeting. Notice of school board action shall be personally delivered or mailed to the administrator.

If the administrator appeals to the school board, or if the school board determines on its own motion to review the proposed decision of the administrative law judge, a private hearing shall be held before the school board within five days after the petition for review, or motion for review, has been made or at such other time as the parties agree. The private hearing is not subject to chapter 21. The school board may hear the case de novo upon the record as submitted before the administrative law judge. In cases where there is an appeal from a proposed decision or where a proposed decision is reviewed on motion of the school board, an opportunity shall be afforded to each party to file exceptions, present briefs and

present oral arguments to the school board which is to render the final decision. The secretary of the school board shall give the administrator written notice of the time, place, and date of the hearing. The school board shall meet within five days after the hearing to determine the question of continuance or discontinuance of the contract, and, if the board determines to continue the administrator's contract, whether to suspend the administrator with or without pay for a period specified by the board. The school board shall make findings of fact which shall be based solely on the evidence in the record and on matters officially noticed in the record.

When the school board has reached a decision, opinion, or conclusion, it shall convene in open meeting and by roll call vote determine the continuance or discontinuance of the administrator's contract, and, if the board votes to continue the administrator's contract, whether to suspend the administrator with or without pay for a period specified by the board. The record of the private conference and findings of fact and exceptions shall be exempt from the provisions of chapter 22. The secretary of the school board shall immediately personally deliver or mail notice of the school board's action to the administrator.

Approved April 23, 2001

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## CHAPTER 63

### LIMITATION OF CRIMINAL ACTIONS — INCEST — SEXUAL EXPLOITATION

H.F. 458

**AN ACT** extending the statute of limitations period for filing a criminal charge of incest or sexual exploitation by a counselor or therapist.

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

Section 1. NEW SECTION. 802.2A INCEST — SEXUAL EXPLOITATION BY A COUNSELOR OR THERAPIST.

1. An information or indictment for incest under section 726.2 committed on or with a person who is under the age of eighteen shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age. An information or indictment for any other incest shall be found within ten years after its commission.

2. An indictment or information for sexual exploitation by a counselor or therapist under section 709.15 committed on or with a person who is under the age of eighteen shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age. An information or indictment for any other sexual exploitation shall be found within ten years of the date the victim was last treated by the counselor or therapist.

Sec. 2. Section 802.3, Code 2001, is amended to read as follows:

802.3 FELONY — AGGRAVATED OR SERIOUS MISDEMEANOR.

~~1.~~ In all cases, except those enumerated in ~~subsection 2 and in sections 802.1 and, 802.2, and 802.2A,~~ an indictment or information for a felony or aggravated or serious misdemeanor shall be found within three years after its commission.

~~2. An indictment or information for sexual exploitation by a counselor or therapist under section 709.15 shall be found within ten years of the date the victim was last treated by the counselor or therapist.~~

Approved April 23, 2001

**CHAPTER 64**  
**ADULT DAY SERVICES**  
*H.F. 655*

AN ACT relating to the establishment of a system of oversight for adult day services.

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

Section 1. Section 89.2, subsection 5, paragraph a, Code 2001, is amended to read as follows:

a. A building or structure primarily used as a theater, motion picture theater, museum, arena, exhibition hall, school, college, dormitory, bowling alley, physical fitness center, family entertainment center, lodge hall, union hall, pool hall, casino, place of worship, funeral home, institution of health and custodial care, hospital, or child care or adult day ~~care~~ services.

Sec. 2. Section 135C.1, subsection 1, Code 2001, is amended to read as follows:

1. "Adult day ~~care~~ services" means ~~an organized program of supportive care provided for sixteen hours or less in a twenty-four hour period to persons who require support and assistance on a regular or intermittent basis~~ adult day services as defined in section 231.61 that are provided in a licensed health care facility.

Sec. 3. Section 135C.2, subsection 6, paragraph a, Code 2001, is amended to read as follows:

a. This chapter shall not apply to adult day ~~care~~ services provided in a health care facility. However, adult day ~~care~~ services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

Sec. 4. Section 135C.33, subsection 5, paragraph a, Code 2001, is amended to read as follows:

a. An employee of a homemaker, home-health aide, home-care aide, adult day ~~care~~ ser-  
vices, or other provider of in-home services if the employee provides direct services to consumers.

Sec. 5. Section 234.6, subsection 6, paragraph a, Code 2001, is amended to read as follows:

a. Child care for children or adult day ~~care for adults~~ services, in facilities which are licensed or are approved as meeting standards for licensure.

Sec. 6. NEW SECTION. 231.61 ADULT DAY SERVICES REQUIREMENTS — OVER-SIGHT.

1. As used in this section, unless the context otherwise requires, "adult day services" means personal care services provided on a planned basis in a supervised, protective, congregate setting during some portion of the twenty-four hour day. Services offered as adult day services may include but are not limited to social, recreational, or health services, support services such as training and counseling, meals, medication assistance, rehabilitation services, and home health aide services. Adult day services provided in an existing facility, must have separate and distinct staff, hours of operation, and designated space.

2. The department shall establish, in cooperation with the department of inspections and appeals, the department of human services, the Iowa department of public health, the area agencies on aging, industry representatives, and consumers, a system of oversight for all adult day services in the state. The system shall address, but is not limited to, all of the following:

a. Requirements for the operation of adult day services.

b. Oversight measures including evaluation of adult day services and assessment of compliance with rules for adult day services.

c. A system for formal investigation of consumer complaints relating to adult day services.

d. Coordination of requirements and funding sources available to adult day services.

3. The department shall adopt rules pursuant to chapter 17A to implement the system.

Sec. 7. Section 235B.2, subsection 14, Code 2001, is amended to read as follows:

14. "Support services" includes but is not limited to community-based services including area agency on aging assistance, mental health services, fiscal management, home health services, housing-related services, counseling services, transportation services, adult day care services, respite services, legal services, and advocacy services.

Sec. 8. Section 249H.2, subsection 1, paragraph d, Code 2001, is amended to read as follows:

d. The supported development of long-term care alternatives, including assisted-living facility services, adult day care services, and home and community-based services, is critical in areas of the state where such alternatives otherwise are not likely to be developed.

Sec. 9. Section 249H.6, subsection 5, Code 2001, is amended to read as follows:

5. In addition to the types of grants described in subsection 1, the department of human services, at the direction of the senior living coordinating unit, may also use moneys appropriated to the department from the senior living trust fund to award grants, of not more than one hundred thousand dollars per grant, to licensed nursing facilities that are awarded nursing facility conversion grants and agree, as part of the nursing facility conversion, to also provide adult day care services, child care for children with special needs, safe shelter for victims of dependent adult abuse, or respite care.

Sec. 10. Section 249H.7, subsection 1, Code 2001, is amended to read as follows:

1. Beginning October 1, 2000, the department of elder affairs, in consultation with the senior living coordinating unit, shall use funds appropriated from the senior living trust fund for activities related to the design, maintenance, or expansion of home and community-based services for seniors, including but not limited to adult day care services, personal care, respite, homemaker, chore, and transportation services designed to promote the independence of and to delay the use of institutional care by seniors with low and moderate incomes. At any time that moneys are appropriated, the department of elder affairs, in consultation with the senior living coordinating unit, shall disburse the funds to the area agencies on aging.

Sec. 11. Section 422.45, subsection 22, paragraph c, Code 2001, is amended to read as follows:

c. Rehabilitation facilities that provide accredited rehabilitation services to persons with disabilities which are accredited by the commission on accreditation of rehabilitation facilities or the accreditation council for services for persons with mental retardation and other persons with developmental disabilities and adult day care services approved for reimbursement by the state department of human services.

Sec. 12. IMPLEMENTATION — CONTINGENCY. The department shall implement the adult day services system developed pursuant to section 231.61 on July 1, 2002, or at such time as the general assembly appropriates sufficient funding to implement the system.

Approved April 23, 2001

**CHAPTER 65****COUNTY PUBLIC HOSPITAL TRUSTEE ELIGIBILITY —  
HEALTH CARE PRACTITIONERS***H.F. 663*

**AN ACT** repealing the ban on persons or spouses of persons who receive direct or indirect compensation from or who have certain privileges in a county public hospital, from serving as a trustee for that county public hospital.

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

Section 1. Section 347.9, Code 2001, is amended to read as follows:

**347.9 TRUSTEES — APPOINTMENT — TERMS OF OFFICE.**

When it has been determined by the voters of a county to establish a county public hospital, the board shall appoint seven trustees chosen from among the resident citizens of the county with reference to their fitness for office, and not more than four of the trustees shall be residents of the city at which the hospital is located. The trustees shall hold office until the following general election, at which time their successors shall be elected, two for a term of two years, two for four years, and three for six years, and they shall determine by lot their respective terms, and thereafter their successors shall be elected for regular terms of six years each. A person or spouse of a person with medical or special staff privileges in the county public hospital or who receives direct or indirect compensation in an amount greater than one thousand five hundred dollars in a calendar year from the county public hospital or direct or indirect compensation in an amount greater than one thousand five hundred dollars in a calendar year from a person contracting for services with the hospital shall not be eligible to serve as a trustee for that county public hospital. However, this section does not prohibit a licensed health care practitioner from serving as a hospital trustee if the practitioner's sole use of the county hospital is to provide health care service to an individual with mental retardation as defined in section 222.2.

Sec. 2. Section 347.15, Code 2001, is repealed.

Approved April 23, 2001

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**CHAPTER 66****STATE AND LOCAL COMPETITION WITH PRIVATE INDUSTRY — NOTICE***H.F. 686*

**AN ACT** relating to provision of notice prior to the provision of products or services by state agencies or political subdivisions.

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

Section 1. **NEW SECTION.** 17A.34 **COMPETITION WITH PRIVATE ENTERPRISE — NOTATION IN RULES.**

When a rule is proposed, the administrative rules coordinator shall make an initial determination of whether the rule may cause a service or product to be offered for sale to the public by a state agency that competes with private enterprise. If such a service or product may be

offered as a result of the proposed rule, that fact shall be included in the notice of intended action of the rule.

Sec. 2. NEW SECTION. 23A.2A COMPETITION WITH PRIVATE INDUSTRY — NOTATION IN ACTS.

When a bill or joint resolution is requested, the legislative service bureau shall make an initial determination of whether the bill or joint resolution may cause a service or product to be offered for sale to the public by a state agency or political subdivision that competes with private enterprise. If such a service or product may be offered as a result of the bill or resolution, that fact shall be included in the explanation of the bill or joint resolution.

Approved April 23, 2001

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## CHAPTER 67

### CUSTODY OF NEWBORN INFANTS — RELEASE AT INSTITUTIONAL HEALTH CARE FACILITIES — PARENTAL RIGHTS

S.F. 355

**AN ACT** providing for the release of custody and termination of parental rights for certain newborn infants whose parent or person authorized to act on the parent's behalf relinquishes physical custody at certain health facilities and providing certain immunity from prosecution and civil liability for such parent or person, establishing confidentiality protections and a penalty, and providing an effective date.

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

Section 1. NEW SECTION. 232B.1 NEWBORN SAFE HAVEN ACT — DEFINITIONS.

1. This chapter may be cited as the "Newborn Safe Haven Act".
2. For the purposes of this chapter, unless the context otherwise requires:
  - a. "Institutional health facility" means a hospital as defined in section 135B.1, including a facility providing medical or health services that is open twenty-four hours per day, seven days per week and is a hospital emergency room, or a health care facility as defined in section 135C.1.
  - b. "Newborn infant" means a child who is, or who appears to be, fourteen days of age or younger.

Sec. 2. NEW SECTION. 232B.2 NEWBORN INFANT CUSTODY RELEASE PROCEDURES.

1. A parent of a newborn infant may voluntarily release custody of the newborn infant by relinquishing physical custody of the newborn infant, without expressing an intent to again assume physical custody, at an institutional health facility or by authorizing another person to relinquish physical custody on the parent's behalf. If physical custody of the newborn infant is not relinquished directly to an individual on duty at the institutional health facility, the parent may take other actions to be reasonably sure that an individual on duty is aware that the newborn infant has been left at the institutional health facility. The actions may include but are not limited to making telephone contact with the institutional health facility or a 911 service. For the purposes of this chapter and for any judicial proceedings associated with the newborn infant, a rebuttable presumption arises that the person who relinquishes physical custody at an institutional health facility in accordance with

this section is the newborn infant's parent or has relinquished physical custody with the parent's authorization.

2. a. Unless the parent or other person relinquishing physical custody of a newborn infant clearly expresses an intent to return to again assume physical custody of the newborn infant, an individual on duty at the facility at which physical custody of the newborn infant was relinquished pursuant to subsection 1 shall take physical custody of the newborn infant. The individual on duty may request the parent or other person to provide the name of the parent or parents and information on the medical history of the newborn infant and the newborn infant's parent or parents. However, the parent or other person is not required to provide the names or medical history information to comply with this section. The individual on duty may perform reasonable acts necessary to protect the physical health or safety of the newborn infant. The individual on duty and the institutional health facility in which the individual was on duty are immune from criminal or civil liability for any acts or omissions made in good faith to comply with this section.

b. If the physical custody of the newborn infant is relinquished at an institutional health facility, the state shall reimburse the institutional health facility for the institutional health facility's actual expenses in providing care to the newborn infant and in performing acts necessary to protect the physical health or safety of the newborn infant. The reimbursement shall be paid from moneys appropriated for this purpose to the department of human services.

c. The individual on duty or other person designated by the institutional health facility at which physical custody of the newborn infant was relinquished shall submit the certificate of birth report as required pursuant to section 144.14.

3. As soon as possible after the individual on duty assumes physical custody of a newborn infant released under subsection 1, the individual shall notify the department of human services and the department shall take the actions necessary to assume the care, control, and custody of the newborn infant. The department shall immediately notify the juvenile court and the county attorney of the department's action and the circumstances surrounding the action and request an ex parte order from the juvenile court ordering, in accordance with the requirements of section 232.78, the department to take custody of the newborn infant. Upon receiving the order, the department shall take custody of the newborn infant. Within twenty-four hours of taking custody of the newborn infant, the department shall notify the juvenile court and the county attorney in writing of the department's action and the circumstances surrounding the action.

4. a. Upon being notified in writing by the department under subsection 3, the county attorney shall file a petition alleging the newborn infant to be a child in need of assistance in accordance with section 232.87 and a petition for termination of parental rights with respect to the newborn infant in accordance with section 232.111, subsection 2, paragraph "a". A hearing on a child in need of assistance petition filed pursuant to this subsection shall be held at the earliest practicable time. A hearing on a termination of parental rights petition filed pursuant to this subsection shall be held no later than thirty days after the day the physical custody of the newborn child was relinquished in accordance with subsection 1 unless the juvenile court continues the hearing beyond the thirty days for good cause shown.

b. Notice of a petition filed pursuant to this subsection shall be provided to any known parent and others in accordance with the provisions of chapter 232 and shall be served upon any putative father registered with the state registrar of vital statistics pursuant to section 144.12A. In addition, prior to holding a termination of parental rights hearing with respect to the newborn infant, notice by publication shall be provided as described in section 600A.6, subsection 5.

5. Reasonable efforts, as defined in section 232.102, that are made in regard to the newborn infant shall be limited to the efforts made in a timely manner to finalize a permanency plan for the newborn infant.

6. An individual on duty at an institutional health facility who assumes custody of a newborn infant upon the release of the newborn infant under subsection 1 shall be provided notice of any hearing held concerning the newborn infant at the same time notice is provided to other parties to the hearing and the individual may provide testimony at the hearing.

**Sec. 3. NEW SECTION. 232B.3 IMMUNITY.**

Any person authorized by the parent to assist with release of custody in accordance with section 232B.2 by relinquishing physical custody of the newborn infant or to otherwise act on the parent's behalf is immune from criminal prosecution for abandonment or neglect of the newborn infant under section 726.3 or 726.6 and civil liability for any reasonable acts or omissions made in good faith in assisting with the release.

**Sec. 4. NEW SECTION. 232B.4 RIGHTS OF PARENTS.**

Either parent of a newborn infant whose custody was released in accordance with section 232B.2, may intervene in the child in need of assistance or termination of parental rights proceedings held regarding the newborn infant and request that the juvenile court grant custody of the newborn infant to the parent. The requester must show by clear and convincing evidence that the requester is the parent of the newborn infant. If the court determines that the requester is the parent of the newborn infant and that granting custody of the newborn infant to the parent is in the newborn infant's best interest, the court shall issue an order granting custody of the newborn infant to the parent. In addition to such order, the court may order services for the newborn infant and the parent as are in the best interest of the newborn infant.

**Sec. 5. NEW SECTION. 232B.5 CONFIDENTIALITY PROTECTIONS.**

1. In addition to any other privacy protection established in law, a record that is developed, acquired, or held in connection with an individual's good faith effort to voluntarily release a newborn infant in accordance with this chapter and any identifying information concerning the individual shall be kept confidential. Such record shall not be inspected or the contents disclosed except as provided in this section.

2. A record described in subsection 1 may be inspected and the contents disclosed without court order to the following:

- a. The court and professional court staff, including juvenile court officers.
- b. The newborn infant and the newborn infant's counsel.
- c. The newborn infant's parent, guardian, custodian, and those persons' counsel.
- d. The newborn infant's court-appointed special advocate and guardian ad litem.
- e. The county attorney and the county attorney's assistants.
- f. An agency, association, facility, or institution which has custody of the newborn infant, or is legally responsible for the care, treatment, or supervision of the newborn infant.
- g. The newborn infant's foster parent or an individual providing preadoptive care to the newborn infant.

3. Pursuant to court order a record described in subsection 1 may be inspected by and the contents may be disclosed to any of the following:

a. A person conducting bona fide research for research purposes under whatever conditions the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.

b. Persons who have a direct interest in a proceeding or in the work of the court.

4. Any person who knowingly discloses, receives, or makes use or permits the use of information derived directly or indirectly from such a record or discloses identifying information concerning such individual, except as provided by this section, commits a serious misdemeanor.

**Sec. 6. NEW SECTION. 232B.6 EDUCATIONAL AND PUBLIC INFORMATION.**

The department of human services, in consultation with the Iowa department of public



health and the department of justice, shall develop and distribute the following:

1. An information card or other publication for distribution by an institutional health facility to a parent who releases custody of a newborn infant in accordance with this chapter. The publication shall inform the parent of a parent's rights under section 232B.4, explain the request for medical history information under section 232B.2, subsection 2, and provide other information deemed pertinent by the departments.

2. Educational materials, public information announcements, and other resources to develop awareness of the availability of the newborn safe haven Act, among adolescents, young parents, and others who might avail themselves of the Act.

3. Signage that may be used to identify the institutional health facilities at which physical custody of a newborn infant may be relinquished in accordance with this chapter.

Sec. 7. Section 232.2, subsection 6, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. p. Who is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 232B.

Sec. 8. Section 232.111, subsection 2, paragraph a, subparagraph (3), Code 2001, is amended to read as follows:

(3) The child is less than twelve months of age and has been judicially determined to meet the definition of abandonment of a child or the child is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 232B.

Sec. 9. Section 232.116, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. bb. The court finds that there is clear and convincing evidence that the child is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 232B.

Sec. 10. Section 232.117, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9. If a termination of parental rights order is issued on the grounds that the child is a newborn infant whose parent has voluntarily released custody of the child under section 232.116, subsection 1, paragraph "bb", the court shall retain jurisdiction to change a guardian or custodian and to allow a parent whose rights have been terminated to request vacation or appeal of the termination order which request must be made within thirty days of issuance of the granting of the termination order. The period for request for vacation or appeal by a parent whose rights have been terminated shall not be waived or extended and a vacation or appeal shall not be granted for a request made after the expiration of this period. The court shall grant the vacation request only if it is in the best interest of the child. The supreme court shall prescribe rules to establish the period of thirty days, which shall not be waived or extended, in which a parent whose parental rights have been terminated may request a vacation or appeal of such a termination order.

Sec. 11. Section 726.3, Code 2001, is amended to read as follows:

726.3 NEGLECT OR ABANDONMENT OF A DEPENDENT PERSON.

A person who is the father, mother, or some other person having custody of a child, or of any other person who by reason of mental or physical disability is not able to care for the person's self, who knowingly or recklessly exposes such person to a hazard or danger against which such person cannot reasonably be expected to protect such person's self or who deserts or abandons such person, knowing or having reason to believe that the person will be exposed to such hazard or danger, commits a class "C" felony. However, a parent or person authorized by the parent who has, in accordance with section 232B.2, voluntarily released custody of a newborn infant shall not be prosecuted for a violation of this section involving abandonment of that newborn infant.

Sec. 12. Section 726.6, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 1A. A parent or person authorized by the parent who has, in accordance with section 232B.2, voluntarily released custody of a newborn infant shall not be prosecuted for a violation of subsection 1, paragraph "f", relating to abandonment.

Sec. 13. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 24, 2001

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## CHAPTER 68

### IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM — ADMINISTRATION AND INVESTMENTS

S.F. 497

**AN ACT** relating to the governance of the Iowa public employees' retirement system and providing an effective date.

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

Section 1. Section 12.8, unnumbered paragraph 3, Code 2001, is amended to read as follows:

The treasurer of state, with the approval of the investment board of the Iowa public employees' retirement system, may conduct a program of lending securities in the Iowa public employees' retirement system portfolio. When securities are loaned as provided by this paragraph, the treasurer shall act in the manner provided for investment of moneys in the Iowa public employees' retirement fund under section ~~97B.7~~ 97B.7A. The treasurer of state shall report at least annually to the investment board of the Iowa public employees' retirement system on the program and shall provide additional information on the program upon the request of the investment board or the employees of the Iowa public employees' retirement system division of the department of personnel.

Sec. 2. Section 12B.10, subsection 4, paragraph f, Code 2001, is amended to read as follows:

f. Investments authorized for the Iowa public employees' retirement system in section ~~97B.7, subsection 2, paragraph "b"~~ 97B.7A, except that investment in common stocks is not permitted.

Sec. 3. Section 12C.5, Code 2001, is amended to read as follows:

#### 12C.5 REFUSAL OF DEPOSITS — PROCEDURE.

If the approved depositories will not accept the deposits under the conditions prescribed or authorized in this chapter, the funds may be deposited, on the same or better terms as were offered to the depositories, in one or more approved depositories conveniently located within the state.

The treasurer of state may invest in any of the investments authorized for the Iowa public employees' retirement system in section ~~97B.7, subsection 2, paragraph "b"~~ 97B.7A except that investment in common stocks shall not be permitted.

Sec. 4. Section 12C.10, Code 2001, is amended to read as follows:

### 12C.10 INVESTMENT OF FUNDS CREATED BY ELECTION.

The governing council or board, who by law have control of any fund created by direct vote of the people, may invest any portion of the fund not currently needed, in investments authorized in section 12B.10. The treasurer of state may invest in any of the investments authorized for the Iowa public employees' retirement system in section ~~97B.7, subsection 2, paragraph "b"~~ 97B.7A except that investment in common stocks shall not be permitted. Interest or earnings on such funds shall be credited as provided in section 12C.7, subsection 2.

Sec. 5. Section 19A.1, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. The investment board of the Iowa public employees' retirement system created by section ~~97B.8~~ 97B.8A.

Sec. 6. Section 97A.7, subsection 2, Code 2001, is amended to read as follows:

2. The several funds created by this chapter may be invested in any investments authorized for the Iowa public employees' retirement system in section ~~97B.7, subsection 2, paragraph "b"~~ 97B.7A.

Sec. 7. Section 97B.1, Code 2001, is amended to read as follows:

#### 97B.1 SYSTEM CREATED — ORGANIZATIONAL DEFINITIONS.

1. The "Iowa Public Employees' Retirement System" is created. The Iowa public employees' retirement system is division, a separate and distinct division within the department of personnel, shall administer the system.

2. As used in this chapter unless the context requires otherwise:

a. "Board" means the investment board created by section ~~97B.8~~ 97B.8A.

~~b. "Chief executive officer" means the chief executive officer of the Iowa public employees' retirement system division, notwithstanding section 7E.2, subsection 3, paragraph "c", subparagraph (1).~~

~~c. "Committee" means the benefits advisory committee created by section 97B.8B.~~

~~b. d. "Department Division" means the department of personnel Iowa public employees' retirement system division.~~

~~e. "Director" means the director of the department of personnel.~~

~~d. e. "System" means the Iowa public employees' retirement system.~~

Sec. 8. NEW SECTION. 97B.3A CHIEF EXECUTIVE OFFICER — APPOINTMENT AND QUALIFICATIONS.

1. The administrator of the division is the chief executive officer. The chief executive officer shall be appointed by the governor subject to confirmation by the senate. A vacancy shall be filled for the unexpired portion of the term in the same manner as a full-term appointment is made. The governor may remove the chief executive officer for malfeasance in office, or for any cause that renders the chief executive officer ineligible, incapable, or unfit to discharge the duties of the office.

2. The qualifications for appointment as the chief executive officer shall include management-level pension fund administration experience. The qualifications for appointment as the chief executive officer shall also include a demonstrated knowledge of all aspects of pension fund administration, including financial management, investment asset management, benefit design and delivery, legal administration, and operations administration. The chief executive officer shall not be selected on the basis of political affiliation, and while employed as the chief executive officer, shall not be a member of a political committee, participate in a political campaign, or be a candidate for a partisan elective office, and shall not contribute to a political campaign fund, except that the chief executive officer may designate on the checkoff portion of the state or federal income tax return, or both, a party or parties to which a contribution is made pursuant to the checkoff. The chief executive officer shall not hold any other office under the laws of the United States or of this or any state and shall devote full time to the duties of office.

Sec. 9. Section 97B.4, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

**97B.4 ADMINISTRATION OF SYSTEM — POWERS AND DUTIES OF DIVISION — IMMUNITY.**

1. **CHIEF EXECUTIVE OFFICER.** The division, through the chief executive officer, shall administer this chapter. The chief executive officer shall also be the division's statutory designee with respect to the rulemaking power.

2. **GENERAL AUTHORITY.**

a. The division may adopt, amend, waive, or rescind rules, employ persons, execute contracts with outside parties, make expenditures, require reports, make investigations, and take other action it deems necessary for the administration of the system in conformity with the requirements of this chapter, the applicable provisions of the Internal Revenue Code, and all other applicable federal and state laws. The rules shall be effective upon compliance with chapter 17A.

b. The division may delegate to any person such authority as it deems reasonable and proper for the effective administration of this chapter, and may bond any person handling moneys or signing checks under this chapter.

c. In administering this chapter, the division shall enter into a biennial agreement with the department of personnel concerning the sharing of resources between the division and department which are of benefit to each and which are consistent with the mission of the division and the department. The budget program for the division shall be established by the chief executive officer in consultation with the board and other staff of the division and shall be compiled by the department of personnel in collaboration with the division and submitted on behalf of the division by the department pursuant to section 8.23.

3. **PERSONNEL.**

a. **CHIEF INVESTMENT OFFICER.** The chief executive officer, following consultation with the board, shall employ a chief investment officer who shall be appointed pursuant to chapter 19A and shall be responsible for administering the investment program for the retirement fund pursuant to the investment policies of the board.

b. **CHIEF BENEFITS OFFICER.** The chief executive officer, following consultation with the benefits advisory committee, shall employ a chief benefits officer who shall be appointed pursuant to chapter 19A and shall be responsible for administering the benefits and other services provided under the system.

c. **ACTUARY.** The division shall employ an actuary who shall be selected by the board and shall serve at the pleasure of the board. The actuary shall be the technical advisor for the system on matters regarding the operation of the retirement fund.

d. **DIVISION EMPLOYEES.** Subject to other provisions of this chapter, the division may employ all other personnel as necessary for the administration of the system. The maximum number of full-time equivalent employees specified by the general assembly for the division for administration of the system for a fiscal year shall not be reduced by any authority other than the general assembly. The personnel of the division shall be appointed pursuant to chapter 19A. The division shall not appoint or employ a person who is an officer or committee member of a political party organization or who holds or is a candidate for a partisan elective public office.

e. **LEGAL ADVISORS.** The division may employ attorneys and contract with attorneys and legal firms for the provision of legal counsel and advice in the administration of this chapter and chapter 97C.

f. **OUTSIDE ADVISORS.** The division may execute contracts with persons outside state government, including investment advisors, consultants, and managers, in the administration of this chapter. However, a contract with an investment manager or investment consultant shall not be executed by the division pursuant to this paragraph without the prior approval by the board of the hiring of the investment manager or investment consultant.

4. **REPORTS.**

a. **ANNUAL REPORT TO GOVERNOR.** Not later than the fifteenth day of December of

each year, the division shall submit to the governor a report covering the administration and operation of this chapter during the preceding fiscal year and shall make recommendations for amendments to this chapter. The report shall include a balance sheet of the moneys in the retirement fund. The report shall also include information concerning the investment management expenses for the retirement fund for each fiscal year expressed as a percent of the market value of the retirement fund investment assets, including the information described in section 97B.7, subsection 3, paragraph "d". The information provided under this paragraph shall also include information on the investment policies and investment performance of the retirement fund. In providing this information, to the extent possible, the division shall include the total investment return for the entire fund, for portions of the fund managed by investment managers, and for internally managed portions of the fund, and the cost of managing the fund per thousand dollars of assets. The performance shall be based upon market value, and shall be contrasted with relevant market indices and with performances of pension funds of similar asset size.

b. **ANNUAL STATEMENT TO MEMBERS.** The division shall prepare and distribute to the members, at the expense of the retirement fund, an annual statement of the member's account and, in such a manner as the division deems appropriate, other information concerning the system.

c. **ACTUARIAL INVESTIGATION.** During calendar year 2002, and every four years thereafter, the division shall cause an actuarial investigation to be made of all experience under the retirement system. Pursuant to such an investigation, the division shall, from time to time, determine upon an actuarial basis the condition of the system and shall report to the general assembly its findings and recommendations.

d. **ANNUAL VALUATION OF ASSETS.** The division shall cause an annual actuarial valuation to be made of the assets and liabilities of the system and shall prepare an annual statement of the amounts to be contributed under this chapter, and shall publish annually such valuation of the assets and liabilities and the statement of receipts and disbursements of the system. Based upon the actuarial methods and assumptions adopted by the board for the annual valuation, the division shall certify to the governor the contribution rates determined thereby as the rates necessary and sufficient for members and employers to fully fund the benefits and retirement allowances being credited.

5. **INVESTMENTS.** The division, through the chief investment officer, shall invest, in accordance with the investment policy and goal statement established by the board, the portion of the retirement fund which, in the judgment of the division, is not needed for current payment of benefits under this chapter subject to the requirements of section 97B.7A.

6. **OLD RECORDS.** The division may destroy or dispose of such original reports or records as have been properly recorded or summarized in the permanent records of the division and are deemed by the chief executive officer to be no longer necessary to the proper administration of this chapter. The destruction or disposition shall be made only by order of the chief executive officer. Records of deceased members of the system may be destroyed ten years after the later of the final payment made to a third party on behalf of the member or the death of the member. Any moneys received from the disposition of these records shall be deposited to the credit of the retirement fund subject to rules adopted by the division.

7. **IMMUNITY.** The division, employees of the division, the board, the members of the board, and the treasurer of state are not personally liable for actions or omissions under this chapter that do not involve malicious or wanton misconduct even if those actions or omissions violate the standards established in section 97B.7A.

Sec. 10. Section 97B.7, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

**97B.7 FUND CREATED — EXCLUSIVE BENEFIT — STANDING APPROPRIATIONS.**

1. There is hereby created as a special fund, separate and apart from all other public moneys or funds of this state, the "Iowa Public Employees' Retirement Fund", hereafter called the "retirement fund". The retirement fund shall consist of all moneys collected under

this chapter, together with all interest, dividends, and rents thereon, and shall also include all securities or investment income and other assets acquired by and through the use of the moneys belonging to the retirement fund and any other moneys that have been paid into the retirement fund.

2. The treasurer of the state of Iowa is hereby made the custodian of the retirement fund and shall hold and disburse the retirement fund in accordance with the requirements of this chapter. As custodian, the treasurer shall be authorized to disburse moneys in the retirement fund upon warrants drawn by the director of revenue and finance pursuant to the order of the division. The treasurer shall not select any bank or other third party for the purposes of investment asset safekeeping, other custody, or settlement services without prior consultation with the board.

3. All moneys which are paid or deposited into the fund are appropriated and made available to the division to be used for the exclusive benefit of the members and their beneficiaries or contingent annuitants as provided in this chapter:

- a. To be used by the division for the payment of claims for benefits under this chapter.
- b. To be used by the division to pay refunds provided for in this chapter.
- c. To be used for the costs of administering the system, including up to \$50,000 per fiscal year for actual and necessary expenses of the benefits advisory committee. If as a result of action under section 8.31, the governor has reduced the moneys appropriated from the retirement fund to the division for salaries, support, maintenance, and other operational purposes to pay the costs of the system for a fiscal year, it is the intent of the general assembly that the amount by which the appropriation has been reduced should be transferred from the retirement fund to the division for salaries, support, maintenance, and other operational purposes to pay the costs of the system for that fiscal year.
- d. To be used to pay for investment management expenses incurred in the management of the retirement fund. Expenses incurred pursuant to this paragraph shall be charged to the investment income of the retirement fund. However, the amount appropriated for a fiscal year under this paragraph shall not exceed four-tenths of one percent of the market value of the retirement fund.

Sec. 11. NEW SECTION. 97B.7A INVESTMENT AND MANAGEMENT OF RETIREMENT FUND — STANDARDS — IMMUNITY.

1. INVESTMENT AND INVESTMENT POLICY STANDARDS. In establishing the investment policy of the retirement fund and providing for the investment of the retirement fund, the division and board shall do the following:

- a. Exercise the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for the purpose of speculation, but with regard to the permanent disposition of the funds, considering the probable income, as well as the probable safety, of their capital.
- b. Give appropriate consideration to those facts and circumstances that the division and board know or should know are relevant to the particular investment or investment policy involved, including the role the investment plays in the total value of the retirement fund.
- c. For the purposes of this subsection, appropriate consideration includes, but is not limited to, a determination that the particular investment or investment policy is reasonably designed to further the purposes of the system, taking into consideration the risk of loss and the opportunity for gain or income associated with the investment or investment policy and consideration of the following factors as they relate to the retirement fund:
  - (1) The composition of the retirement fund with regard to diversification.
  - (2) The liquidity and current return of the investments in the retirement fund relative to the anticipated cash flow requirements of the system.
  - (3) The projected return of the investments relative to the funding objectives of the retirement system.

2. INVESTMENT ACQUISITIONS. Within the limitations of the investment standards

prescribed in this section, the system may acquire and retain every kind of property and every kind of investment which persons of prudence, discretion, and intelligence acquire or retain for their own account. Consistent with this section, investments shall be made in a manner that will enhance the economy of this state, and in particular, will result in increased employment of the residents of this state. Investments of moneys in the retirement fund are not subject to sections 73.15 through 73.21.

3. **LIABILITY — REIMBURSEMENT.** Except as provided in section 97B.4, subsection 7, if there is loss to the retirement fund, the treasurer of state, the division, the employees of the division, the members of the board severally, and the board are not personally liable, and the loss shall be charged against the retirement fund. There is appropriated from the retirement fund, the amount required to cover a loss.

4. **INVESTMENT PROCEDURES.** In managing the investment of the retirement fund, the division, in accordance with the investment policy established by the board, is authorized to do the following:

a. To sell any securities or other property in the retirement fund and reinvest the proceeds when such action may be deemed advisable by the division for the protection of the retirement fund or the preservation of the value of the investment. Such sale of securities or other property of the retirement fund and reinvestment shall only be made in accordance with policies of the board in the manner and to the extent provided in this chapter.

b. To subscribe for the purchase of securities for future delivery in anticipation of future income. The securities shall be paid for by anticipated income or from funds from the sale of securities or other property held by the retirement fund.

c. To pay for securities directed to be purchased upon the receipt of the purchasing bank's paid statement or paid confirmation of purchase.

5. **TRAVEL.** In the administration of the investment of moneys in the retirement fund, employees of the division and members of the board may travel outside the state for the purpose of meeting with investment firms and consultants and attending conferences and meetings to fulfill their fiduciary responsibilities. This travel is not subject to section 421.38, subsection 2.

Sec. 12. **NEW SECTION.** 97B.8A **INVESTMENT BOARD.**

1. **BOARD ESTABLISHED.** A board is established to be known as the "Investment Board of the Iowa Public Employees' Retirement System", referred to in this chapter as the "board". The duties of the board are to establish policy, and review its implementation, in matters relating to the investment of the retirement fund. The board shall be the trustee of the retirement fund.

2. **INVESTMENT REVIEW.** a. At least annually the board shall review the investment policies and procedures used by the board and division, and shall hold a public meeting on the investment policies and investment performance of the retirement fund. Following its review and the public meeting, the board shall, pursuant to the requirements of section 97B.7A, and in consultation with the chief investment officer and other relevant personnel of the division, establish an investment policy and goal statement that shall direct the investment activities concerning the retirement fund.

b. The board shall review and approve, prior to the execution of a contract with the division, the hiring of each investment manager and investment consultant outside of state government.

c. The board shall be involved in the performance evaluation of the chief investment officer.

3. **ACTUARIAL RESPONSIBILITIES.**

a. The board shall select the actuary to be employed by the system as provided in section 97B.4.

b. The board shall, in consultation with the chief executive officer, the actuary, and other relevant personnel of the division, adopt from time to time mortality tables and all other necessary factors for use in actuarial calculations required in connection with the system.

The board shall also adopt the actuarial methods and assumptions to be used by the actuary for the annual valuation of assets as required by section 97B.4.

4. MEMBERSHIP.

a. The board shall consist of eleven members, including seven voting members and four nonvoting members. The voting members shall be as follows:

(1) Three public members, appointed by the governor, who are not members of the system and who each have substantial institutional investment experience or substantial institutional financial experience.

(2) Three members, appointed by the governor, who are members of the system. Prior to the appointment by the governor of a member of the board under this subparagraph, the benefits advisory committee shall submit a slate of at least two nominees per position to the governor for the governor's consideration. The governor is not required to appoint a member from the slate submitted. Of the three members appointed, one shall be an active member who is an employee of a school district, area education agency, or merged area; one shall be an active member who is not an employee of a school district, area education agency, or merged area; and one shall be a retired member of the system.

(3) The treasurer of state.

The nonvoting members of the board shall be two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house, and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate.

b. Four voting members of the board shall constitute a quorum.

c. The three members who have substantial institutional investment experience or substantial institutional financial experience, and the member who is a retired member of the system, shall be paid their actual expenses incurred in the performance of their duties and shall receive a per diem as specified in section 7E.6 for each day of service not exceeding forty days per year. Legislative members shall be paid the per diem and expenses specified in section 2.10, for each day of service. The per diem and expenses of the legislative members shall be paid from funds appropriated under section 2.12. The members who are active members of the system and the treasurer of state shall be paid their actual expenses incurred in the performance of their duties as members of the board and the performance of their duties as members of the board shall not affect their salaries, vacations, or leaves of absence for sickness or injury.

d. The appointive terms of the members appointed by the governor are for a period of six years beginning and ending as provided in section 69.19. If there is a vacancy in the membership of the board for one of the members appointed by the governor, the governor has the power of appointment. Gubernatorial appointees to this board are subject to confirmation by the senate.

5. CLOSED SESSIONS. In addition to the reasons provided in section 21.5, subsection 1, the board may hold a closed session pursuant to the requirements of section 21.5 of that portion of a board meeting in which financial or commercial information is provided to or discussed by the board if the board determines that disclosure of such information could result in a loss to the system or to the provider of the information.

Sec. 13. NEW SECTION. 97B.8B BENEFITS ADVISORY COMMITTEE.

1. COMMITTEE ESTABLISHED. A benefits advisory committee shall be established whose duty is to consider and make recommendations to the division and the general assembly concerning the provision of benefits and services to members of the system.

2. MEMBERSHIP. The benefits advisory committee shall be comprised of representatives of constituent groups concerned with the system, and shall include representatives of employers, active members, and retired members. In addition, the director of the department of personnel and a member of the public selected by the voting members of the committee shall serve as members of the committee. The division shall adopt rules under chapter 17A



to provide for the selection of members to the committee and the election of the voting members of the committee.

3. VOTING MEMBERS. Of the members who comprise the committee, nine members shall be voting members. Except as otherwise provided by this subsection, the voting members shall be elected by the members of the committee from the membership of the committee. Of the nine voting members of the committee, four shall represent covered employers, and four shall represent the members of the system. Of the four voting members representing employers, one shall be the director of the department of personnel, one shall be a member of a constituent group that represents cities, one shall be a member of a constituent group that represents counties, and one shall be a member of a constituent group that represents local school districts. Of the four voting members who represent members of the system, one shall be a member of a constituent group that represents teachers. The ninth voting member of the committee shall be a citizen who is not a member of the system and who is elected by the other voting members of the committee.

4. DUTIES.

a. At least every two years, the benefits advisory committee shall review the benefits and services provided to members under this chapter, and the voting members of the committee shall make recommendations to the division and the general assembly concerning the services provided to members and the benefits, benefits policy, and benefit goals, provided under this chapter.

b. The benefits advisory committee shall be involved in the performance evaluation of the chief benefits officer.

c. Upon the expiration of the term of office of or a vacancy concerning one of the three members of the investment board described in section 97B.8A, subsection 4, paragraph "a", subparagraph (2), the voting members of the committee shall submit to the governor the names of at least two nominees who meet the requirements specified in that subparagraph. The governor may appoint the member from the list submitted by the committee.

5. TERMS OF VOTING MEMBERS. Except for the director of the department of personnel and as otherwise provided in the rules for the initial selection of voting members of the committee, each member selected to be a voting member shall serve as a voting member for three years. Terms for voting members begin on May 1 in the year of selection and expire on April 30 in the year of expiration. Vacancies shall be filled in the same manner as the original selections. A vacancy shall be filled for the unexpired term.

6. EXPENSES. The members who are not active members of the system shall be paid their actual expenses incurred in the performance of their duties and shall receive a per diem as specified in section 7E.6 for each day of service not exceeding forty days per year. The members who are active members of the system and the director of the department of personnel shall be paid their actual expenses incurred in the performance of their duties as members of the committee and the performance of their duties as members of the committee shall not affect their salaries, vacations, or leaves of absence for sickness or injury. However, the benefits advisory committee shall not incur any additional expenses in fulfilling its duties as provided by this section without the express written authority of the chief executive officer.

Sec. 14. Section 97B.20A, Code 2001, is amended to read as follows:

97B.20A APPEAL PROCEDURE.

Members and third-party payees may appeal any decision made by the ~~department~~ division that affects their rights under this chapter. The appeal shall be filed with the ~~department~~ division within thirty days after the notification of the decision was mailed to the party's last known mailing address, or the decision of the ~~department~~ division is final. If the party appeals the decision of the ~~department~~ division, the ~~department~~ division shall conduct an internal review of the decision and the chief ~~benefits~~ executive officer shall notify the individual who has filed the appeal in writing of the ~~department's~~ division's decision. The

individual who has filed the appeal may file an appeal of the ~~department's~~ division's final decision with the ~~department~~ division under chapter 17A by notifying the ~~department~~ division of the appeal in writing within thirty days after the notification of its final decision was mailed to the party's last known mailing address. Once notified, the ~~department~~ division shall forward the appeal to the department of inspections and appeals.

Sec. 15. Section 97B.25, Code 2001, is amended to read as follows:  
97B.25 APPLICATIONS FOR BENEFITS.

A representative designated by the chief ~~benefits~~ executive officer and referred to in this chapter as a retirement benefits officer shall promptly examine applications for retirement benefits and on the basis of facts found shall determine whether or not the claim is valid. If the claim is valid, the retirement benefits officer shall send a notification to the member stating the option the member has selected pursuant to section 97B.51, the month with respect to which benefits shall commence, and the monthly benefit amount payable. If the claim is invalid, the retirement benefits officer shall promptly notify the applicant and any other interested party of the decision and the reasons. A retirement application shall not be amended or revoked by the member once the first retirement allowance is paid. A member's death during the first month of entitlement shall not invalidate an approved application.

Sec. 16. Section 257B.20, subsection 4, Code 2001, is amended to read as follows:

4. In any investments authorized for the Iowa public employees' retirement system in section ~~97B.7, subsection 2, paragraph "b"~~ 97B.7A, except that investment in common stocks shall not be permitted.

Sec. 17. Section 411.7, subsection 2, Code 2001, is amended to read as follows:

2. The secretary of the board of trustees shall invest, in accordance with the investment policy established by the board of trustees, the portion of the fund established in section 411.8 which in the judgment of the board is not needed for current payment of benefits under this chapter in investments authorized in section ~~97B.7, subsection 2, paragraph "b"~~ 97B.7A, for moneys in the Iowa public employees' retirement fund.

Sec. 18. Section 602.9111, subsection 1, Code 2001, is amended to read as follows:

1. So much of the judicial retirement fund as may not be necessary to be kept on hand for the making of disbursements under this article shall be invested by the treasurer of state in any investments authorized for the Iowa public employees' retirement system in section ~~97B.7, subsection 2, paragraph "b"~~ 97B.7A, and the earnings therefrom shall be credited to the fund. The treasurer of state may execute contracts and agreements with investment advisors, consultants, and investment management and benefit consultant firms in the administration of the judicial retirement fund.

Sec. 19. INVESTMENT BOARD TRANSITION.

1. Notwithstanding provisions of section 97B.8A, as enacted in this Act, to the contrary, the new investment board of the Iowa public employees' retirement system shall, on July 1, 2002, consist of the following members, who shall serve the following terms:

a. The members of the investment board established under section 97B.8, Code 2001, who are an active member who is an employee of a school district, area education agency, or merged area; an active member who is not an employee of a school district, area education agency, or merged area; and a retired member, shall cease membership on the investment board and commence membership on the new investment board established under section 97B.8A on July 1, 2002. The terms of these members on the investment board established under section 97B.8A shall expire on the same date as their terms would have expired on the investment board in accordance with section 97B.8, Code 2001.

b. The members of the investment board established under section 97B.8, Code 2001, who are an executive of a domestic life insurance company, an executive of a state or national bank, and an executive of an industrial corporation located within the state of Iowa, shall

cease membership on the investment board and commence membership on the new investment board established under section 97B.8A on July 1, 2002. The terms of these members on the new investment board established under section 97B.8A shall expire on the same date as their terms would have expired on the investment board in accordance with section 97B.8, Code 2001. Upon expiration of each of these member's term of office, the governor shall appoint a member to the board consistent with the requirements of section 97B.8A, subsection 4, paragraph "a", subparagraph (1).

c. The members of the investment board established under section 97B.8, Code 2001, who are legislative members shall cease membership on the investment board and commence membership on the new investment board established under section 97B.8A on July 1, 2002. Two additional legislative members shall be appointed and commence membership on the new investment board on July 1, 2002, as provided in section 97B.8A as enacted in this Act. The terms of these members shall expire at the pleasure of the appointing authorities as provided in section 97B.8A, as enacted in this Act.

d. The director of the department of personnel shall cease membership on the investment board established under section 97B.8, Code 2001, on July 1, 2002. The treasurer of state shall commence membership on the new investment board established under section 97B.8A, and shall serve on the board as provided in section 97B.8A, as enacted in this Act.

2. Initial appointments by the governor under this section are subject to confirmation by the senate. If a vacancy occurs as to a member of the investment board established under section 97B.8A who is appointed by the governor prior to the expiration of a term as provided in this section, the governor shall appoint a member to serve the remainder of the term so that the membership requirements of section 97B.8A, as enacted in this Act, are fulfilled, and the appointment shall be subject to confirmation by the senate. Upon the expiration of a term established in this section, a member shall be appointed in the manner and for a term of service as specified in section 97B.8A, as enacted in this Act. Except as otherwise provided in this section, the investment board established under this section shall be subject to the requirements of section 97B.8A, as enacted in this Act.

#### Sec. 20. BENEFITS ADVISORY COMMITTEE TRANSITION.

1. Effective July 1, 2001, and notwithstanding provisions of section 97B.8B, as enacted in this Act, to the contrary, a transition benefits advisory committee shall be created and shall consist of the following voting members:

- a. A member representing the Iowa state education association.
- b. A member representing the Iowa association of community college trustees.
- c. A member representing the school administrators of Iowa.
- d. A member representing the Iowa association of school boards.
- e. A member representing the retired school personnel association.
- f. A member representing the state police officers council.
- g. The director of the department of personnel.
- h. A member representing the IPERS' improvement association.
- i. A member representing the American federation of state, county, and municipal employees.
- j. A member representing the Iowa state sheriffs' and deputies' association.
- k. A member representing the Iowa state association of counties.
- l. A member representing the Iowa league of cities.
- m. A member representing the Iowa association of chiefs of police and peace officers.
- n. A member of the public with substantial pension benefits experience as selected by the chief benefits officer of the Iowa public employees' retirement system.
- o. A member representing the department of management.

2. By July 1, 2002, the transition benefits advisory committee shall issue a report to the Iowa public employees' retirement system division concerning the rules to be adopted by the division governing the benefits advisory committee as provided in section 97B.8B, as enacted in this Act. The rules should include provisions governing the selection of members of

the committee, the selection of voting members of the committee, and any other provisions deemed necessary for establishing the benefits advisory committee consistent with the requirements of section 97B.8B.

3. The transition benefits advisory committee shall be dissolved by July 31, 2002.

Sec. 21. AMENDMENTS CHANGING TERMINOLOGY — DIRECTIVES TO CODE EDITOR. Except as otherwise provided in this Act, the Iowa Code editor is directed to strike the words “department”, “department of personnel”, and “department’s” and insert the words “division” and “division’s” wherever the word “department”, “department of personnel”, or “department’s” appears in chapter 97B of the Iowa Code and the reference to “department”, “department of personnel”, or “department’s” means the department of personnel unless a contrary intent is clearly evident.

Sec. 22. ADMINISTRATIVE RULES. To the extent not inconsistent with this Act, the administrative rules promulgated and adopted by the department of personnel concerning the Iowa public employees’ retirement system prior to July 1, 2002, shall be the rules of the Iowa public employees’ retirement system division and shall remain in effect on and after July 1, 2002, subject to the authority of the division to modify or change the rules pursuant to Iowa Code chapter 17A.

Sec. 23. Sections 97B.5, 97B.6, 97B.8, 97B.57, 97B.59, 97B.60, 97B.61, Code 2001, are repealed.

Sec. 24. EFFECTIVE DATE. This Act takes effect July 1, 2002. However, section 20 of this Act, establishing a benefits advisory committee transition, takes effect July 1, 2001.

Approved April 24, 2001

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## CHAPTER 69

### INSURANCE REGULATION

S.F. 500

**AN ACT** relating to insurance, by addressing the operation and regulation of insurance companies, mutual insurance associations, the Iowa insurance guaranty association, and other insurance or risk-assuming entities, including the rights and duties of such entities and the powers and authority of the insurance commissioner; by establishing jurisdiction and venue requirements for actions against the Iowa insurance guaranty association; and providing penalties, repeals, and effective dates.

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

Section 1. Section 87.11, unnumbered paragraph 1, Code 2001, is amended to read as follows:

When an employer coming under this chapter furnishes satisfactory proofs to the insurance commissioner of such employer’s solvency and financial ability to pay the compensation and benefits as by law provided and to make such payments to the parties when entitled thereto, or when such employer deposits with the insurance commissioner security satisfactory to the insurance commissioner and the workers’ compensation commissioner as guaranty for the payment of such compensation, such employer shall be relieved of the provisions of this chapter requiring insurance; but such employer shall, from time to time, fur-

nish such additional proof of solvency and financial ability to pay as may be required by such insurance commissioner or workers' compensation commissioner. A political subdivision, including a city, county, community college, or school corporation, that is self-insured for workers' compensation is not required to submit a plan or program to the insurance commissioner for review and approval.

Sec. 2. Section 505.11, Code 2001, is amended to read as follows:

505.11 REFUNDS.

Whenever it appears to the satisfaction of the commissioner of insurance that because of error, mistake, or erroneous interpretation of statute that a foreign or domestic insurance corporation has paid to the state of Iowa taxes, fines, penalties, or license fees in excess of the amount legally chargeable against it, the commissioner of insurance shall have power to refund to such corporation any such excess by applying the amount ~~thereof~~ of the excess payment toward the payment of taxes, fines, penalties, or license fees already due or which may hereafter become due, until such excess payments have been fully refunded. ~~The commissioner shall certify to the department of revenue and finance the amount of any such credit to be applied to future taxes due and notify the insurance company affected of the amount thereof.~~

Sec. 3. Section 507.10, subsection 2, Code 2001, is amended to read as follows:

2. FILING OF EXAMINATION REPORT. No later than sixty days following completion of the examination, the examiner in charge shall file with the division a verified written report of examination ~~under oath~~. Upon receipt of the verified report and after administrative review, the division shall transmit the report to the company examined, together with a notice which shall afford the company examined a reasonable opportunity of not more than thirty days to make a written submission or rebuttal with respect to any matters contained in the examination report.

Sec. 4. Section 507A.4, subsection 7, Code 2001, is amended by striking the subsection.

Sec. 5. Section 507B.4, subsection 9, paragraph f, Code 2001, is amended to read as follows:

f. Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear, or failing to include interest on the payment of claims when required under section 511.38 or subsection 10B.

Sec. 6. Section 507B.4, subsection 9, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. o. Failing to comply with the procedures for auditing claims submitted by health care providers as set forth by rule of the commissioner. However, this paragraph shall have no applicability to liability insurance, workers' compensation or similar insurance, automobile or homeowners' medical payment insurance, disability income, or long-term care insurance.

Sec. 7. Section 507B.4, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 10B. PAYMENT OF INTEREST. Failure of an insurer to pay interest at the rate of ten percent per annum on all health insurance claims that the insurer fails to timely accept and pay pursuant to section 507B.4A, subsection 1, paragraph "e".<sup>1</sup> Interest shall accrue commencing on the thirty-first day after receipt of all properly completed proof of loss forms.

For purposes of this subsection, "insurer" means an entity providing a plan of health insurance, health care benefits, or health care services, or an entity subject to the jurisdiction of the commissioner performing utilization review, including an insurance company offering sickness and accident plans, a health maintenance organization, an organized delivery system authorized under 1993 Iowa Acts, chapter 158, and licensed by the department of public health, a nonprofit health service corporation, a plan established pursuant to

<sup>1</sup> See chapter 118, §15 herein

chapter 509A for public employees, or any other entity providing a plan of health insurance, health care benefits, or health care services. However, "insurer" does not include an entity that sells disability income or long-term care insurance.

Sec. 8. NEW SECTION. 507B.4A DUTY TO RESPOND TO INQUIRIES AND PROMPT PAYMENT OF CLAIM.

1. A person shall promptly respond to inquiries from the commissioner.

a. A person's actions are deemed untimely under this subsection if the person fails to respond to an inquiry from the commissioner within thirty days of the receipt of the inquiry, unless good cause exists for delay.

b. Failure to respond to inquiries from the commissioner pursuant to this subsection with such frequency as to indicate a general business practice shall subject the person to penalty under this chapter.

2. a. An insurer providing accident and sickness insurance under chapter 509, 514, or 514A; a health maintenance organization; an organized delivery system authorized under 1993 Iowa Acts, chapter 158, and licensed by the department of public health; or another entity providing health insurance or health benefits subject to state insurance regulation shall either accept and pay or deny a clean claim.

b. For purposes of this subsection, "clean claim" means a properly completed paper or electronic billing instrument containing all reasonably necessary information, that does not involve coordination of benefits for third-party liability, preexisting condition investigations, or subrogation, and that does not involve the existence of particular circumstances requiring special treatment that prevents a prompt payment from being made.

c. The commissioner shall adopt rules establishing processes for timely adjudication and payment of claims by insurers for health care benefits. The rules shall be consistent with the time frames and other procedural standards for claims decisions by group health plans established by the United States department of labor pursuant to 29 C.F.R. pt. 2560 in effect at the time of passage of this Act.<sup>2</sup>

d. Payment of a clean claim shall include interest at the rate of ten percent per annum when an insurer or other entity as defined in this subsection that administers or processes claims on behalf of the insurer or other entity fails to timely pay a claim.

e. This subsection shall not apply to liability insurance, workers' compensation or similar insurance, automobile or homeowners' medical payment insurance, disability income, or long-term care insurance.

Sec. 9. Section 507B.6, subsection 1, Code 2001, is amended to read as follows:

1. Whenever the commissioner ~~shall have reason to believe~~ believes that any ~~such~~ person has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice whether or not defined in section 507B.4, 507B.4A, or 507B.5 and that a proceeding by the commissioner in respect ~~thereto~~ to such method of competition or unfair or deceptive act or practice would be ~~to the interest of~~ in the public interest, the commissioner shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing ~~thereon~~ on such charges to be held at a time and place fixed in the notice, which shall not be less than ten days after the date of the service ~~thereof~~ of such notice.

Sec. 10. Section 507B.7, subsection 1, Code 2001, is amended to read as follows:

1. If, after such hearing, the commissioner ~~shall determine~~ determines that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice, the commissioner shall reduce the findings to writing and shall issue and cause to be served upon the person charged with the violation a copy of such findings, an order requiring such person to cease and desist from engaging in such method of competition, act or practice and if the act or practice is a violation of section 507B.4, 507B.4A, or 507B.5, the commissioner may at the commissioner's discretion order any one or more of the following:

<sup>2</sup> See chapter 176, §71 herein

a. Payment of a civil penalty of not more than one thousand dollars for each act or violation, but not to exceed an aggregate of ten thousand dollars, unless the person knew or reasonably should have known the person was in violation of section 507B.4, 507B.4A, or 507B.5, in which case the penalty shall be not more than five thousand dollars for each act or violation, but not to exceed an aggregate penalty of fifty thousand dollars in any one six-month period. ~~The commissioner shall, if~~ If the commissioner finds the violations that a violation of section 507B.4, 507B.4A, or 507B.5 ~~were was~~ directed, encouraged, condoned, ignored, or ratified by the employer of the person or by an insurer, the commissioner shall also assess a fine to the employer or insurer.

b. Suspension or revocation of the license of a person as defined in section 507B.2, subsection 1, if the person knew or reasonably should have known the person was in violation of section 507B.4, 507B.4A, or ~~section~~ 507B.5.

c. Payment of interest at the rate of ten percent per annum if the commissioner finds that the insurer failed to pay interest as required under section 507B.4, subsection 10B.

Sec. 11. Section 507B.12, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The commissioner may, after notice and hearing, promulgate reasonable rules, as are necessary or proper to identify specific methods of competition or acts or practices which are prohibited by section 507B.4, 507B.4A, or 507B.5, but the rules shall not enlarge upon or extend the provisions of such sections. Such rules shall be subject to review in accordance with chapter 17A.

Sec. 12. Section 511.4, Code 2001, is amended to read as follows:

511.4 ADVERTISEMENTS — WHO DEEMED AGENT.

The provisions of sections ~~515.122~~ 515.123 to 515.126 shall apply to life insurance companies and associations.

Sec. 13. Section 513B.2, subsections 3 and 20, Code 2001, are amended to read as follows:

3. "Basic health benefit plan" means a plan ~~which is offered~~ established by the board of the small employer health reinsurance program pursuant to section ~~513B.14~~ 513B.13, subsection 8, paragraph "a".

20. "Standard health benefit plan" means a plan ~~which is offered~~ established by the board of the small employer health reinsurance program pursuant to section ~~513B.14~~ 513B.13, subsection 8, paragraph "a".

Sec. 14. Section 513B.4, subsection 1, paragraphs d and e, Code 2001, are amended by striking the paragraphs.

Sec. 15. Section 513B.4, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 16. Section 513B.10, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. A carrier or an organized delivery system that offers health insurance coverage in the small group market shall accept every small employer that applies for health insurance coverage and shall accept for enrollment under such coverage every eligible individual who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the health insurance coverage and shall not place any restriction which is inconsistent with eligibility rules established under this chapter. ~~A carrier or organized delivery system shall offer health insurance coverage which constitutes a basic health benefit plan and which constitutes a standard health benefit plan.~~

Sec. 17. Section 513B.10, subsection 3, Code 2001, is amended by striking the subsection.

Sec. 18. Section 513B.13, subsection 3, paragraph c, Code 2001, is amended by striking the paragraph.

Sec. 19. Section 513B.13, subsection 3, paragraph d, Code 2001, is amended to read as follows:

d. ~~Subsequent members~~ Members shall be appointed for terms of three years. A board member's term shall continue until the member's successor is appointed.

Sec. 20. Section 513B.13, subsections 4 and 5, Code 2001, are amended to read as follows:

4. The board, ~~within one hundred eighty days after the initial appointments, shall~~ may submit a plan of operation to the commissioner. The commissioner, after notice and hearing, may approve ~~the~~ a plan of operation if the commissioner determines that the plan is suitable to assure the fair, reasonable, and equitable administration of the program, and provides for the sharing of program gains and losses on an equitable and proportionate basis in accordance with the provisions of this section. ~~The~~ A plan of operation is effective upon written approval of the commissioner. ~~After the initial plan of operation is submitted and approved by the commissioner, the~~

5. The board may submit to the commissioner any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the program. The amendments shall be effective upon the written approval of the commissioner.

~~5. If the board fails to submit a plan of operation within one hundred eighty days after the board's appointment, the commissioner, after notice and hearing, shall establish and adopt a temporary plan of operation. The commissioner shall amend or rescind a plan adopted pursuant to this subsection at the time a plan is submitted by the board and approved by the commissioner.~~

Sec. 21. Section 513B.13, subsection 8, paragraph a, Code 2001, is amended to read as follows:

a. ~~With respect to a basic health benefit plan or a standard health benefit plan, the program shall reinsure the level of coverage provided and, with respect to other plans, the~~ The program shall reinsure up to the level of coverage provided in either a basic health benefit plan or standard health benefit plan established by the board.

Sec. 22. Section 513B.13, subsection 13, Code 2001, is amended by striking the subsection.

Sec. 23. Section 514E.1, subsection 15, paragraph a, Code 2001, is amended to read as follows:

a. "Health insurance coverage" means health insurance coverage offered to individuals; ~~but does not include short term limited duration insurance.~~

Sec. 24. NEW SECTION. 514J.3A NOTICE.

When a claim is denied in whole or in part based on medical necessity, the carrier or organized delivery system shall provide a notice in writing to the enrollee of the internal appeal mechanism provided under the carrier or organized delivery system's plan or policy.

At the time of a coverage decision, the carrier or organized delivery system shall notify the enrollee in writing of the right to have the coverage decision reviewed under the external review process.

Sec. 25. Section 514J.4, subsection 1, Code 2001, is amended by striking the subsection.

Sec. 26. Section 514J.5, Code 2001, is amended to read as follows:

514J.5 CERTIFICATION OF REQUEST — ELIGIBILITY.

1. The commissioner shall have two business days from receipt of a request for an external review to certify the request. The commissioner shall certify the request if all of the following criteria are satisfied:

a. The enrollee was covered by the carrier or organized delivery system at the time the service or treatment was proposed or received.



b. The enrollee has been denied coverage based on a determination by the carrier or organized delivery system that the proposed or received service or treatment does not meet the definition of medical necessity as defined in the enrollee's evidence of coverage carrier's or organized delivery system's plan or policy.

c. The enrollee, or the enrollee's treating health care provider acting on behalf of the enrollee, has exhausted all internal appeal mechanisms provided under the carrier's or the organized delivery system's ~~contract~~ plan or policy.

d. The written request for external review was filed within sixty days of receipt of the coverage decision.

2. The commissioner shall notify the enrollee, or the enrollee's treating health care provider acting on behalf of the enrollee, and the carrier or organized delivery system in writing of the ~~decision~~ certification.

3. The carrier or organized delivery system has three business days to contest ~~the eligibility of the request for external review with the commissioner~~ the commissioner's certification decision. If the commissioner finds that the request for external review is not eligible for full review certification, the commissioner, within two business days, shall notify the enrollee, or the enrollee's treating health care provider acting on behalf of the enrollee, in writing of the reasons that the request for external review is not eligible for full review certification.

4. If the commissioner finds that the request for external review is eligible for certification, notwithstanding the contest by the carrier or organized delivery system, the commissioner shall notify the carrier or organized delivery system in writing of the reasons for upholding the certification.

Sec. 27. Section 514J.7, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

#### 514J.7 EXTERNAL REVIEW.

The external review process shall meet the following criteria:

1. The carrier or organized delivery system, within three business days of a receipt of an eligible request for an external review from the commissioner, or within three business days of receipt of the commissioner's denial of the carrier's or organized delivery system's contest of the certification of the request under section 514J.5, subsection 3, whichever is later, shall do all of the following:

a. Select an independent review entity from the list certified by the commissioner. The independent review entity shall be an expert in the treatment of the medical condition under review. The independent review entity shall not be a subsidiary of, or owned or controlled by, the carrier or organized delivery system, or owned or controlled by a trade association of carriers or organized delivery systems of which the carrier or organized delivery system is a member.

b. Notify the enrollee, and the enrollee's treating health care provider, of the name, address, and telephone number of the independent review entity and of the enrollee's and treating health care provider's right to submit additional information.

c. Notify the selected independent review entity by facsimile that the carrier or organized delivery system has chosen it to do the independent review and provide sufficient descriptive information to identify the type of experts needed to conduct the review.

d. Provide to the commissioner by facsimile a copy of the notices sent to the enrollee and to the selected independent review entity.

2. The independent review entity, within three business days of receipt of the notice, shall select a person to perform the external review and shall provide notice to the enrollee of a brief description of the person including the reasons the person selected is an expert in the treatment of the medical condition under review. The independent review entity does not need to disclose the name of the person. A copy of the notice shall be sent by facsimile to the commissioner. If the independent review entity does not have a person who is an expert in the treatment of the medical condition under review and certified by the commissioner to conduct an independent review, the independent review entity may either decline the review

request or may request from the commissioner additional time to have such an expert certified. The independent review entity shall notify the commissioner by facsimile of its choice between these options within three business days of receipt of the notice from the carrier or organized delivery system. The commissioner shall provide a notice to the enrollee and carrier or organized delivery system of the independent review entity's decision and of the commissioner's decision as to how to proceed with the external review process within three business days of receipt of the independent review entity's decision.

3. The enrollee, or the enrollee's treating health care provider acting on behalf of the enrollee, may object to the independent review entity selected by the carrier or organized delivery system or to the person selected as the reviewer by the independent review entity by notifying the commissioner and carrier or organized delivery system within ten days of the mailing of the notice by the independent review entity. The commissioner shall have two business days from receipt of the objection to consider the reasons set forth in support of the objection to approve or deny the objection, to select an independent review entity if necessary, and to provide notice of the commissioner's decision to the enrollee, the enrollee's treating health care provider, and the carrier or organized delivery system.

4. The carrier or organized delivery system, within fifteen days of the mailing of the notice by the independent review entity, or within three business days of a receipt of notice by the commissioner following an objection by the enrollee, whichever is later, shall do all of the following:

a. Provide to the independent review entity any information submitted to the carrier or organized delivery system by the enrollee or the enrollee's treating health care provider in support of the request for coverage of a service or treatment under the carrier's or organized delivery system's appeal procedures.

b. Provide to the independent review entity any other relevant documents used by the carrier or organized delivery system in determining whether the proposed service or treatment should have been provided.

c. Provide to the commissioner a confirmation that the information required in paragraphs "a" and "b" has been provided to the independent review entity, including the date the information was provided.

5. The enrollee, or the enrollee's treating health care provider, may provide to the independent review entity any information submitted under any internal appeal mechanisms provided under the carrier's or organized delivery system's evidence of coverage, and other newly discovered relevant information. The enrollee shall have ten business days from the mailing date of the notification of the person selected as the reviewer by the independent review entity to provide this information. The independent review entity may reasonably decide whether to consider any information provided by the enrollee or the enrollee's treating health care provider after the ten-day period.

6. The independent review entity shall notify the enrollee and the enrollee's treating health care provider of any additional medical information required to conduct the review within five business days of receipt of the documentation required under subsection 4. The enrollee or the enrollee's treating health care provider shall provide the requested information to the independent review entity within five days after receipt of the notification requesting additional medical information. The independent review entity may reasonably decide whether to consider any information provided by the enrollee or the enrollee's treating health care provider after the five-day period. The independent review entity shall notify the commissioner and the carrier or organized delivery system of this request.

7. The independent review entity shall submit its external review decision as soon as possible, but not later than thirty days from the date the independent review entity received the information required under subsection 4 from the carrier or organized delivery system. The independent review entity, for good cause, may request an extension of time from the commissioner. The independent review entity's external review decision shall be mailed to the enrollee or the treating health care provider acting on behalf of the enrollee, the carrier or organized delivery system, and the commissioner.

8. The confidentiality of any medical records submitted shall be maintained pursuant to applicable state and federal laws.

Sec. 28. NEW SECTION. 514J.15 PENALTIES.

A carrier who fails to comply with this chapter or with rules adopted pursuant to this chapter is subject to the penalties provided under chapter 507B.

Sec. 29. Section 515.35, subsection 4, paragraph n, subparagraph (1), Code 2001, is amended to read as follows:

(1) A company organized under this chapter may invest up to ~~two~~ five percent of its admitted assets in securities or property of any kind, without restrictions or limitations except those imposed on business corporations in general.

Sec. 30. Section 515.51, Code 2001, is amended to read as follows:

515.51 POLICIES — EXECUTION — REQUIREMENTS.

All policies or contracts of insurance except surety bonds made or entered into by the company may be made either with or without the seal of the company, but shall be subscribed by the president, or such other officer as may be designated by the directors for that purpose, and be attested to by the secretary or the secretary's designee of the company. A group motor vehicle or group homeowners policy shall not be written or delivered within this state unless such policy is an individual policy or contract form.

Sec. 31. Section 515B.1, subsection 2, Code 2001, is amended to read as follows:

2. Mortgage guaranty, financial guaranty, residual value, or other forms of insurance offering protection against investment risks.

Sec. 32. Section 515B.5, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. Be obligated to pay covered claims subject to a limitation as established by the rights, duties, and obligations under the policy of the insolvent insurer. However, the association is not obligated to pay a claimant an amount in excess of the obligation under the policy of the insolvent insurer, regardless of whether such claim is based on contract or tort.

Sec. 33. Section 515B.16, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

515B.16 ACTIONS AGAINST THE ASSOCIATION.

Any action against the association shall be brought against the association in the association's own name. The Polk county district court shall have exclusive jurisdiction and venue of such actions. Service of the original notice in actions against the association may be made on any officer of the association or upon the commissioner of insurance on behalf of the association. The commissioner shall promptly transmit any notice so served upon the commissioner to the association.

Sec. 34. NEW SECTION. 515F.4A REASONABLENESS OF BENEFITS IN RELATION TO PREMIUM CHARGED.

Benefits provided by credit personal property insurance shall be reasonable in relation to the premium charged. This requirement is satisfied if the premium rate charged develops or may reasonably be expected to develop a loss ratio of not less than fifty percent or such lower loss ratio as designated by the commissioner to afford a reasonable allowance for actual and expected loss experience including a reasonable catastrophe provision, general and administrative expenses, reasonable acquisition expenses, reasonable creditor compensation, investment income, premium taxes, licenses, fees, assessments, and reasonable insurer profit.

Sec. 35. Section 518.23, subsection 4, Code 2001, is amended to read as follows:

4. NOTICE. Service of notice under subsection 2 or 3 may be ~~made in person, or by mailing such notice by certified mail deposited in the post office and directed~~ delivered in

person or mailed to the insured at the insured's post office address as given in or upon the policy, or to such other address as the insured shall have given to the association in writing. A post office department ~~receipt of certified or registered mail~~ certificate of mailing shall be deemed proof of receipt of such ~~notice~~ mailing. If in either case the cash payments exceed the amount properly chargeable, the excess shall be refunded to the insured upon the surrender of the policy to the association at its home office.

Sec. 36. Section 518A.29, subsection 4, Code 2001, is amended to read as follows:

4. NOTICE. Service of notice under subsection 2 or 3 may be ~~made in person, or by mailing such notice by certified mail deposited in the post office and directed~~ delivered in person or mailed to the insured at the insured's post office address as given in or upon the policy, or to such other address as the insured shall have given to the association in writing. A post office department ~~receipt of certified or registered mail~~ certificate of mailing shall be deemed proof of receipt of such ~~notice~~ mailing. If in either case the cash payments exceed the amount properly chargeable, the excess shall be refunded upon the surrender of the policy to the association at its home office.

Sec. 37. Section 515.122, Code 2001, is repealed.

Sec. 38. Sections 432.12, 513B.14, 513B.16, 513B.17A, 513B.18, and 513B.31 through 513B.43, Code 2001, are repealed.

Sec. 39. EFFECTIVE DATE. Sections 4,<sup>3</sup> 7 through 11, 13 through 22, 34, and 38 of this Act take effect January 1, 2002.

Approved April 24, 2001

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## CHAPTER 70

### INFORMATION TECHNOLOGY DEPARTMENT — FINANCIAL OPERATIONS AND TRANSACTIONS

*H.F. 292*

**AN ACT** relating to the financial operations and transactions of the information technology department.

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

Section 1. Section 14B.102, subsection 2, Code 2001, is amended by adding the following new paragraphs:

NEW PARAGRAPH. k. Receiving and accepting donations, gifts, and contributions in the form of money, services, materials, or otherwise, from the United States or any of its agencies, from this state or any of its agencies, or from any other person, and to using or expending such moneys, services, materials, or other contributions in carrying on information technology operations.

NEW PARAGRAPH. l. Charging a negotiated fee to recover a share of the costs related to the research and development, initial production, and derivative products of the department's proprietary software and hardware, information technology architecture design, and pro-

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<sup>3</sup> See chapter 118, §56 herein

proprietary technology applications developed to support authorized users, to private vendors and to other political entities and subdivisions, including but not limited to states, territories, protectorates, and foreign countries. The department may enter into nondisclosure agreements to protect the state of Iowa's proprietary interests. The provisions of chapter 23A relating to noncompetition by state agencies and political subdivisions with private enterprise shall not apply to department activities authorized under this paragraph.

Sec. 2. Section 14B.203, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~The department shall collect moneys~~ Moneys paid to a participating governmental ~~ent-  
ties~~ entity from persons who complete an electronic financial transaction with the govern-  
mental entity by accessing lowAccess ~~shall be transferred to the treasurer of state for deposit  
in the general fund, unless the disposition of the moneys is specifically provided for under  
other law.~~ The moneys may include all of the following:

Sec. 3. Section 14B.203, subsection 3, Code 2001, is amended by striking the subsection.

Sec. 4. Section 23A.2, subsection 10, Code 2001, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** n. The performance of an activity authorized pursuant to section 14B.102, subsection 2, paragraph "l".

Approved April 24, 2001

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## CHAPTER 71

### CIVIL RIGHTS ACTIONS — MEDIATION

H.F. 326

**AN ACT** relating to the mediation process in civil rights cases.

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

Section 1. Section 216.15B, Code 2001, is amended to read as follows:  
216.15B MEDIATION — CONFIDENTIALITY.

1. A mediator ~~shall~~ may be designated in writing by the commission to conduct formal mediation of a complaint filed under this chapter. The written designation must specifically refer to this section.

2. If formal mediation is conducted by a mediator pursuant to this section, the confidentiality of all mediation communications and mediation documents is protected as provided in section 679C.2.

Approved April 24, 2001

## CHAPTER 72

### RECIPROCITY STANDARDS FOR BARBERS — STUDY

H.F. 526

**AN ACT** providing for a study of state law requirements in this state and other states regarding barber reciprocity practices.

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

Section 1. RECIPROCITY STANDARDS FOR BARBERS — STUDY. The Iowa department of public health, in conjunction with the board of barber examiners, shall conduct a study regarding reciprocity standards, including program hours required and apprenticeship programs, for barbers in other states. The study shall be conducted with the input of barber schools and licensed barbers in this state, and shall examine and review state law requirements concerning the reciprocity practices of other states, with a particular emphasis and focus on the states surrounding and bordering the state of Iowa. The objective of the study shall be to determine ways in which the existing reciprocity system between the state of Iowa and graduates of barber schools and licensed barbers in other states can be improved to achieve greater flexibility and promote the relocation of qualified barbers to this state. The department shall submit a report of its conclusions to the members of the general assembly by December 15, 2001.

Approved April 24, 2001

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## CHAPTER 73

### SEX OFFENDER REGISTRATION — CRIMINAL HIV TRANSMISSION

H.F. 550

**AN ACT** adding the offense of criminal transmission of human immunodeficiency virus to the list of criminal offenses that require registration under the sex offender registry and providing an effective date.

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

Section 1. Section 692A.1, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Criminal transmission of human immunodeficiency virus in violation of section 709C.1, subsection 1, paragraph “a”.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 24, 2001

**CHAPTER 74****HEALTH CARE ENTITIES, ORGANIZATIONS, AND  
INSTITUTIONS — NAMES AND COMPOSITION***S.F. 114*

**AN ACT** relating to the composition of the medical assistance advisory council.

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

Section 1. Section 85A.20, Code 2001, is amended to read as follows:  
85A.20 INVESTIGATION.

The workers' compensation commissioner may designate the industrial hygiene physician of the Iowa department of public health and two physicians selected by the dean of the university of Iowa college of medicine ~~of the state university of Iowa~~, from the staff of the college, who shall be qualified to diagnose and report on occupational diseases. For the purpose of investigating occupational diseases, the physicians shall have the use, without charge, of all necessary laboratory and other facilities of the university of Iowa college of medicine and of the university hospital at the state university of Iowa, and of the Iowa department of public health in performing its duties.

Sec. 2. Section 135.83, Code 2001, is amended to read as follows:

135.83 CONTRACTS FOR ASSISTANCE WITH ANALYSES, STUDIES, AND DATA.

In furtherance of the department's responsibilities under sections 135.76 and 135.78, the director may contract with the ~~association of Iowa hospitals and health systems~~ hospital association and third party payers, the Iowa health care facilities association and third party payers, or the Iowa association of homes for the aging and third party payers for the establishment of pilot programs dealing with prospective rate review in hospitals or health care facilities, or both. Such contract shall be subject to the approval of the executive council and shall provide for an equitable representation of health care providers, third party payers, and health care consumers in the determination of criterion for rate review. No third party payer shall be excluded from positive financial incentives based upon volume of gross patient revenues. No state or federal funds appropriated or available to the department shall be used for any such pilot program.

Sec. 3. Section 142C.2, subsection 6, Code 2001, is amended to read as follows:

6. "Enucleator" means an individual who is certified by the department of ophthalmology of the university of Iowa college of medicine ~~of the university of Iowa~~, or by the eye bank association of America to remove or process eyes or parts of eyes.

Sec. 4. Section 142C.16, subsection 1, paragraph c, Code 2001, is amended to read as follows:

c. The ~~association of Iowa hospitals and health systems~~ hospital association.

Sec. 5. Section 147A.2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

An EMS advisory council shall be appointed by the director. Membership of the council shall be comprised of individuals nominated from, but not limited to, the following state or national organizations: Iowa osteopathic medical association, Iowa medical society, American college of emergency physicians, Iowa physician assistant society, Iowa academy of family physicians, university of Iowa hospitals and clinics, Iowa EMS association, Iowa firemen's association, Iowa professional firefighters, EMS education programs committee, EMS regional council, Iowa nurses association, ~~association of Iowa hospitals and health systems~~ hospital association, and the Iowa state association of counties.

Sec. 6. Section 147A.24, subsection 1, paragraphs i and j, Code 2001, are amended to read as follows:

i. ~~Association of Iowa hospitals and health systems~~ hospital association representing rural hospitals.

j. ~~Association of Iowa hospitals and health systems~~ hospital association representing urban hospitals.

Sec. 7. Section 148D.1, subsection 2, Code 2001, is amended to read as follows:

2. "College of medicine" means the university of Iowa college of medicine ~~at the state University of Iowa.~~

Sec. 8. Section 206.23, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. The dean, university of Iowa college of medicine, ~~University of Iowa,~~ or the dean's designee;

Sec. 9. Section 225.2, Code 2001, is amended to read as follows:

225.2 NAME — LOCATION.

It shall be known as the state psychiatric hospital, and shall be located at Iowa City, and integrated with the university of Iowa college of medicine and university hospital of the state university of Iowa.

Sec. 10. Section 225.30, Code 2001, is amended to read as follows:

225.30 BLANKS — AUDIT.

The medical faculty ~~of the hospital~~ of the university of Iowa college of medicine ~~of the state University of Iowa~~ shall prepare blanks containing such questions and requiring such information as may be necessary and proper to be obtained by the physician who examines a person or respondent whose referral to the state psychiatric hospital is contemplated. A judge may request that a physician who examines a respondent as required by section 229.10 complete such blanks in duplicate in the course of the examination. A physician who proposes to file an information under section 225.10 shall obtain and complete such blanks in duplicate and file them with the information. The blanks shall be printed by the state and a supply thereof shall be sent to the clerk of each district court of the state. The director of revenue and finance shall audit, allow, and pay the cost of the blanks as other bills for public printing are allowed and paid.

Sec. 11. Section 225.33, Code 2001, is amended to read as follows:

225.33 DEATH OF PATIENT — DISPOSAL OF BODY.

In the event that a committed public patient or a voluntary public patient or a committed private patient should die while at the state psychiatric hospital or at the ~~general~~ university hospital ~~of the college of medicine of the state University of Iowa,~~ the state psychiatric hospital shall have the body prepared for shipment in accordance with the rules prescribed by the state board of health for shipping such bodies; and it shall be the duty of the state board of regents to make arrangements for the embalming and such other preparation as may be necessary to comply with the rules and for the purchase of suitable caskets.

Sec. 12. Section 225B.3, subsection 1, paragraphs b, c, and d, Code 2001, are amended to read as follows:

b. Three providers of disability prevention services, recommended by the ~~Iowa~~ governor's ~~planning council~~ for developmental disabilities council, appointed by the governor, and confirmed by the senate.

c. Three persons with expertise in priority prevention areas, recommended by the ~~Iowa~~ governor's ~~planning council~~ for developmental disabilities council, appointed by the governor, and confirmed by the senate.

d. Three persons with disabilities or family members of a person with disabilities, recommended by the ~~Iowa~~ governor's ~~planning council~~ for developmental disabilities council, appointed by the governor and confirmed by the senate.



Sec. 13. Section 225B.7, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The council shall, during the fiscal year beginning July 1, 1991, request grants from the Iowa governor's ~~planning council for~~ developmental disabilities council and from private foundations to defray a minimum of seventy-five percent of the costs of implementation of this chapter. The funds shall be used to carry out the purposes of this chapter, including but not limited to, any of the following purposes:

Sec. 14. Section 225C.6, subsection 1, paragraph k, Code 2001, is amended to read as follows:

k. Coordinate activities with the Iowa governor's ~~planning council for~~ developmental disabilities council.

Sec. 15. Section 235C.2, subsection 8, Code 2001, is amended to read as follows:

8. A hospital administrator or the administrator's designee selected by the board of the ~~association of Iowa hospitals and health systems~~ hospital association.

Sec. 16. Section 235C.3, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. A health professional training campaign, including recommendations concerning the curriculum offered at the university of Iowa college of medicine at the state university of Iowa and Des Moines university — osteopathic medical center, providing assistance in the identification of women at risk of substance abuse during pregnancy and strategies to be employed in assisting those women to maintain healthy lifestyles during pregnancy. This education campaign shall offer information to health professionals on assessment, laboratory testing, and referrals.

Sec. 17. Section 249A.4, subsection 8, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Shall advise and consult at least semiannually with a council composed of the presidents of the following organizations, or a president's representative who is a member of the organization represented by the president: the Iowa medical society, the Iowa osteopathic medical association, the Iowa academy of family physicians, the Iowa chapter of the American academy of pediatrics, the Iowa physical therapy association, the Iowa ~~state~~ dental society association, the Iowa ~~state~~ nurses association, the Iowa ~~pharmacists~~ pharmacy association, the Iowa ~~podiatry~~ podiatric medical society, the Iowa optometric association, the Iowa association of community providers, the Iowa psychological association, the Iowa psychiatric society, the Iowa chapter of the national association of social workers, ~~the association of Iowa hospitals and health systems~~ hospital association, the Iowa association of rural health clinics, ~~the Iowa osteopathic hospital association~~, opticians' association of Iowa, inc., the Iowa association of hearing aid society health professionals, the Iowa speech, ~~language,~~ and hearing association, the Iowa health care association, the Iowa association for home care, the Iowa council of health care centers, the Iowa physician assistant society, the Iowa association of nurse practitioners, the Iowa occupational therapy association, ~~and~~ the Iowa association of homes and services for the aging, the arc of Iowa which was formerly known as the association for retarded citizens of Iowa, the alliance for the mentally ill of Iowa, Iowa state association of counties, and the Iowa governor's ~~planning council for~~ developmental disabilities council, together with one person designated by the Iowa ~~state board of chiropractic examiners~~ society; one state representative from each of the two major political parties appointed by the speaker of the house, one state senator from each of the two major political parties appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, each for a term of two years; four public representatives, appointed by the governor for staggered terms of two years each, none of whom shall be members of, or practitioners of, or have a pecuniary interest in any of the professions or businesses represented by any of the several profes-

sional groups and associations specifically represented on the council under this subsection, and at least one of whom shall be a recipient of medical assistance; the director of public health, or a representative designated by the director; the dean of Des Moines university — osteopathic medical center, or a representative designated by the dean; and the dean of the ~~college of medicine,~~ university of Iowa college of medicine, or a representative designated by the dean.

Sec. 18. Section 255.29, Code 2001, is amended to read as follows:

255.29 MEDICAL CARE FOR PAROLEES AND PERSONS ON WORK RELEASE.

The director of the Iowa department of corrections may send former inmates of the institutions provided for in section 904.102, while on parole or work release, to the hospital of the university of Iowa college of medicine of the state University of Iowa for treatment and care as provided in this chapter, without securing the order of the court required in other cases. The director may pay the traveling expenses of any patient thus committed, and when necessary the traveling expenses of an attendant of the patient out of funds appropriated for the use of the department.

Sec. 19. Section 263.17, subsection 2, paragraph a, subparagraph (2), Code 2001, is amended to read as follows:

(2) The ~~state university of Iowa~~ department of pediatrics of the university of Iowa college of medicine.

Sec. 20. Section 691.5, Code 2001, is amended to read as follows:

691.5 STATE MEDICAL EXAMINER.

The office and position of state medical examiner is established for administrative purposes within the Iowa department of public health. Other state agencies shall cooperate with the state medical examiner in the use of state-owned facilities when appropriate for the performance of nonadministrative duties of the state medical examiner. The state medical examiner shall be a physician and surgeon or osteopathic physician and surgeon, be licensed to practice medicine in the state of Iowa, and be board certified or eligible to be board certified in anatomic and forensic pathology by the American board of pathology. The state medical examiner shall be appointed by and serve at the pleasure of the director of public health upon the advice of and in consultation with the director of public safety and the governor. The state medical examiner, in consultation with the director of public health, shall be responsible for developing and administering the medical examiner's budget and for employment of medical examiner staff and assistants. The state medical examiner may be a faculty member of the university of Iowa college of medicine or the college of law at the university of Iowa, and any of the examiner's assistants or staff may be members of the faculty or staff of the university of Iowa college of medicine or the college of law at the university of Iowa.

Sec. 21. Section 691.6A, Code 2001, is amended to read as follows:

691.6A DEPUTY STATE MEDICAL EXAMINER — CREATION AND DUTIES.

The position of deputy state medical examiner is created within the office of the state medical examiner. The deputy state medical examiner shall report to and be responsible to the state medical examiner. The deputy state medical examiner shall meet the qualification criteria established in section 691.5 for the state medical examiner and shall be subject to rules adopted by the state medical examiner as provided in section 691.6, subsection 3. The state medical examiner and the deputy state medical examiner shall function as a team, providing peer review as necessary, fulfilling each other's job responsibilities during times of absence, and working jointly to provide services and education to county medical examiners, law enforcement officials, hospital pathologists, and other individuals and entities. The deputy medical examiner may be, but is not required to be, a full-time salaried faculty member of the department of pathology of the university of Iowa college of medicine ~~at the university of Iowa~~. If the medical examiner is a full-time salaried faculty member of the

department of pathology of the university of Iowa college of medicine at the ~~university of Iowa~~, the Iowa department of public health and the state board of regents shall enter into a chapter 28E agreement to define the activities and functions of the deputy medical examiner, and to allocate deputy medical examiner costs, consistent with the requirements of this section.

Approved April 25, 2001

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## CHAPTER 75

### COUNTY HOSPITAL FUND TAX LEVY

*S.F. 186*

**AN ACT** providing for a tax levy for the county hospital fund in certain counties and providing an effective date.

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

Section 1. Section 347.7, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If a county hospital is established, the board of supervisors, at the time of levying ordinary taxes, shall levy a tax at the rate voted not to exceed fifty-four cents per thousand dollars of assessed value in any one year for the erection and equipment of the hospital, and also a tax not to exceed twenty-seven cents per thousand dollars of value for the improvement, maintenance, and replacements of the hospital, as certified by the board of hospital trustees. However, in counties having a population of two hundred twenty-five thousand or over, the levy for taxes payable in the fiscal year beginning July 1, ~~1996~~ 2001, and for subsequent fiscal years, for improvements and maintenance of the hospital shall not exceed ~~one dollar two dollars~~ and seventy-five five cents per thousand dollars of assessed value in any one year. The proceeds of the taxes constitute the county public hospital fund and the fund is subject to review by the board of supervisors in counties ~~over~~ having a population of two hundred twenty-five thousand or over. However, the board of trustees of a county hospital, where funds are available in the county public hospital fund of the county which are unappropriated, may use the unappropriated funds for erecting and equipping hospital buildings and additions ~~thereto~~ to the hospital buildings without authority from the voters of the county.

Sec. 2. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 25, 2001

**CHAPTER 76**

## CREDIT UNION DIVISION EMPLOYEE COMPENSATION

S.F. 384

**AN ACT** relating to pay plans for certain employees of the credit union division of the department of commerce.

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

Section 1. Section 533.55, subsection 2, Code 2001, is amended to read as follows:

2. The superintendent may ~~employ special~~ appoint assistants, examiners, and other employees as the superintendent deems necessary to ~~carry out this chapter~~ the proper discharge of duties imposed upon the superintendent by the laws of this state. ~~The superintendent, subject to approval by the board, shall establish salaries for the persons employed.~~ Pay plans shall be established for employees, other than clerical employees, who examine the accounts and affairs of credit unions and who examine the accounts and affairs of other persons, subject to supervision and regulation by the superintendent, that are substantially equivalent to those paid by the national credit union administration and other federal supervisory agencies in this area of the United States.

Approved April 25, 2001

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**CHAPTER 77**

## UNIFORM PRESCRIPTION DRUG INFORMATION CARDS

S.F. 452

**AN ACT** requiring the use of a uniform prescription drug information card by providers of third-party payment or prepayment of prescription drug expenses.

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

Section 1. NEW SECTION. 514L.1 DEFINITIONS.

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

1. "Guide" means the most recent national council for prescription drug programs pharmacy identification card implementation guide, or its successor.
2. "Prescription drug" means prescription drug as defined in section 155A.3 and includes a device as defined in section 155A.3.
3. "Provider of third-party payment or prepayment of prescription drug expenses" or "provider" means a provider of an individual or group policy of accident or health insurance or an individual or group hospital or health care service contract issued pursuant to chapter 509, 514, or 514A, a provider of a plan established pursuant to chapter 509A for public employees, a provider of an individual or group health maintenance organization contract issued and regulated under chapter 514B, a provider of an organized delivery system contract regulated under rules adopted by the director of public health, a provider of a preferred provider contract issued pursuant to chapter 514F, a provider of a self-insured multiple employer welfare arrangement, and any other entity providing health insurance or health benefits which provide for payment or prepayment of prescription drug expenses coverage subject to state insurance regulation.

Sec. 2. NEW SECTION. 514L.2 UNIFORM PRESCRIPTION DRUG INFORMATION CARDS.

1. a. A provider of third-party payment or prepayment of prescription drug expenses, including the provider's agents or contractors and pharmacy benefits managers, that issues a card or other technology for claims processing and an administrator of the payor, excluding administrators of self-funded employer sponsored health benefit plans qualified under the federal Employee Retirement Income Security Act of 1974, shall issue to its insureds a card or other technology containing uniform prescription drug information. The commissioner of insurance shall adopt rules for the uniform prescription drug information card or technology applicable to those entities subject to regulation by the commissioner of insurance. The director of public health shall adopt rules for the uniform prescription drug information card or technology applicable to organized delivery systems. The rules shall require at least both of the following regarding the card or technology:

(1) With respect to the information required, be consistent with the guide, except that the address of the pharmacy benefits manager shall not be required.

(2) With respect to the location of the information required, be substantially consistent with the guide.

b. Any information on the card shall be formatted and arranged in a manner that corresponds to the current content and format required by the provider for processing of claims.

2. A new uniform prescription drug information card or technology, as required pursuant to subsection 1, shall be issued by a provider of third-party payment or prepayment or the provider's agents or contractors or pharmacy benefits managers upon enrollment and reissued upon any change in the insured's coverage that impacts data contained on the card or technology. The commissioner of insurance shall review the national council for prescription drug programs implementation guide or successor document on an ongoing basis to determine changes, and shall modify or adopt rules as determined appropriate.

3. The card or other technology may be used for any health insurance or health benefits coverage and nothing in this chapter shall require a provider to issue a separate card for prescription drug coverage if the card or other technology can accommodate the information necessary to process claims.

4. This chapter shall not apply to prescription drug coverage provided through or in conjunction with any of the following:

- a. Accident-only or disability income insurance coverage.
- b. Hospital confinement indemnity coverage.
- c. Coverage issued as a supplement to liability insurance.
- d. Basic hospital and medical-surgical expense coverage.
- e. Liability insurance, including general liability insurance and automobile liability insurance.
- f. Workers' compensation or similar insurance.
- g. Automobile medical payment insurance.
- h. Credit only insurance.
- i. Coverage for on-site medical clinic care.
- j. Dental or vision coverage.
- k. Benefits for long-term care, nursing home care, or community-based care.
- l. Short-term hospital, medical, or major medical coverage.
- m. Medicare supplemental as defined pursuant to 42 U.S.C. § 1395ss(g)(1), coverage supplemental to the coverage provided under 10 U.S.C. § 1071-1109, and similar coverage that is supplemental to coverage under group health insurance coverage as defined by the commissioner of insurance.
- n. Any other similar limited benefits as defined by the commissioner of insurance.

Sec. 3. NEW SECTION. 514L.3 APPLICATION — ENFORCEMENT.

1. A health insurance or health benefits policy or contract issued and delivered, amended, or renewed on or after July 1, 2003, shall comply with this chapter.

2. The commissioner of insurance shall enforce this chapter and shall adopt rules necessary to implement this chapter.

Approved April 25, 2001

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## CHAPTER 78

### LEGALIZATION OF CITY OF DAVENPORT ORDINANCES AND AMENDMENTS

S.F. 511

**AN ACT** to legalize certain ordinances and amendments considered and passed by the city of Davenport in accordance with procedures no longer valid, and providing an effective date and for retroactive applicability.

WHEREAS, according to section 380.3, a proposed ordinance or amendment must be considered and voted on for passage at two city council meetings prior to the meeting at which it is to be finally passed, unless this requirement is suspended by a recorded vote of not less than three-fourths of all of the members of the council; and

WHEREAS, the city of Davenport from July 1, 1997, until July 1, 2000, utilized a procedure, in compliance with section 380.3, as that section existed prior to July 1, 1997, which entailed considering and voting on an ordinance or amendment at one meeting prior to the meeting at which it was to be finally passed, without suspension by a recorded vote of not less than three-fourths of the council members, and after publishing a summary of the proposed ordinance or amendment prior to its first consideration, and making copies available at the time of publication at the office of the city clerk; and

WHEREAS, the seventy-seventh General Assembly enacted 1997 Iowa Acts, chapter 168, section 4, that eliminated the provision allowing a city council to consider and vote on an ordinance or amendment at one meeting prior to the meeting at which it was to be finally passed, by publishing a summary of the proposed ordinance or amendment, prior to its first consideration, and making copies available at the time of publication at the office of the city clerk; NOW THEREFORE,

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

Section 1. All acts and proceedings relating to any ordinance or amendment considered and passed by the city council of the city of Davenport on and after July 1, 1997, until July 1, 2000, and such ordinance or amendment, the validity of which has been questioned due to the failure of the city council to consider and vote on the proposed ordinance or amendment at two city council meetings prior to the meeting at which it was finally passed, absent a suspension of this requirement by a recorded vote of not less than three-fourths of all of the members of the council, as provided in section 380.3, are hereby legalized, validated, and confirmed.

Sec. 2. **EFFECTIVE AND APPLICABILITY DATES.** This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1997.

Approved April 25, 2001

**CHAPTER 79****CHILD SUPPORT RECOVERY UNIT — COURT RECORDS  
ACCESS — SETOFF PAYMENTS FOR SUPPORT***H.F. 310*

**AN ACT** relating to child support enforcement, including disclosure of certain juvenile court records to the child support recovery unit, and federal tax and nontax setoff payments for accrued support, and providing effective dates.

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

Section 1. Section 232.147, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Official juvenile court records enumerated in section 232.2, subsection 38, paragraph "e", relating to paternity, support, or the termination of parental rights, shall be disclosed, upon request, to the child support recovery unit without court order.

Sec. 2. Section 252B.5, subsection 4, Code 2001, is amended to read as follows:

4. Assistance to set off against a debtor's income tax refund or rebate any support debt, which is assigned to the department of human services or which the child support recovery unit is attempting to collect on behalf of any individual not eligible as a public assistance recipient, which has accrued through written contract, subrogation, or court judgment, and which is in the form of a liquidated sum due and owing for the care, support or maintenance of a child. Unless the periodic payment plan provisions for a retroactive modification pursuant to section 598.21, subsection 8, apply, the entire amount of a judgment for accrued support, notwithstanding compliance with a periodic payment plan or regardless of the date of entry of the judgment, is due and owing as of the date of entry of the judgment and is delinquent for the purposes of setoff, including for setoff against a debtor's federal income tax refund or other federal nontax payment. The department of human services shall ~~promulgate~~ adopt rules pursuant to chapter 17A necessary to assist the department of revenue and finance in the implementation of the child support setoff as established under section 421.17, subsection 21.

Sec. 3. Section 600.16A, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Notwithstanding subsection 2, a termination of parental rights order issued pursuant to section 600A.9 may be disclosed to the child support recovery unit, upon request, without court order.

Sec. 4. **EFFECTIVE DATE.** Section 2 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 25, 2001

**CHAPTER 80****PROPERTY EXEMPT FROM EXECUTION — RETIREMENT PLAN  
CONTRIBUTIONS, EARNINGS, AND INCREASES IN VALUE***H.F. 654*

**AN ACT** relating to the amount of contributions to and accumulated increases in the value of certain retirement plans which are exempt from creditors and providing an effective date.

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

Section 1. Section 627.6, subsection 8, paragraph f, subparagraph (1), Code 2001, is amended by striking the subparagraph and inserting in lieu thereof the following:

(1) All transfers, in any amount, from a trust forming part of a stock, bonus, pension, or profit-sharing plan of an employer defined in section 401(a) of the Internal Revenue Code and of which the trust assets are exempt from taxation under section 501(a) of the Internal Revenue Code and covered by the Employee Retirement Income Security Act of 1974 (ERISA), as codified at 29 U.S.C. 1001 et seq., to either of the following:

(a) A succeeding trust authorized under federal law on or after the effective date of this Act.

(b) An individual retirement account or individual retirement annuity established under section 408(d)(3) of the Internal Revenue Code, from which the total value, including accumulated earnings and market increases in value, may be contributed to a succeeding trust authorized under federal law on or after the effective date of this Act. For purposes of this subparagraph, transfers, in any amount, from an individual retirement account or individual retirement annuity established under section 408(d)(3) of the Internal Revenue Code to an individual retirement account or individual retirement annuity established under section 408(d)(3) of the Internal Revenue Code, or an individual retirement account established under section 408(a) of the Internal Revenue Code, or an individual retirement annuity established under section 408(b) of the Internal Revenue Code, or a Roth individual retirement account, or a Roth individual retirement annuity established under section 408A of the Internal Revenue Code are exempt.

Sec. 2. Section 627.6, subsection 8, paragraph f, Code 2001, is amended by adding the following new subparagraphs:

**NEW SUBPARAGRAPH.** (1A) All transfers, in any amount, from an eligible retirement plan to an individual retirement account, an individual retirement annuity, a Roth individual retirement account, or a Roth individual retirement annuity established under section 408A of the Internal Revenue Code shall be exempt from execution and from the claims of creditors.

As used in this subparagraph, “eligible retirement plan” means the funds or assets in any retirement plan established under state or federal law that meet all of the following requirements:

(a) Can be transferred to an individual retirement account or individual retirement annuity established under sections 408(a) and 408(b) of the Internal Revenue Code or Roth individual retirement accounts and Roth individual retirement annuities established under section 408A of the Internal Revenue Code.

(b) Are either exempt from execution under state or federal law or are excluded from a bankruptcy estate under 11 U.S.C. § 541(c)(2) et seq.

**NEW SUBPARAGRAPH.** (4) For Roth individual retirement accounts and Roth individual retirement annuities established under section 408A of the Internal Revenue Code



and similar plans for retirement investments authorized in the future under federal law, the exemption for contributions shall not exceed, for each tax year of contributions, the actual amount of the contribution or the maximum amount which federal law allows to be contributed to such plans. The exemption for accumulated earnings and market increases in value of plans under this subparagraph shall be limited to an amount determined by multiplying all of the accumulated earnings and market increases in value by a fraction, the numerator of which is the total amount of exempt contributions as determined by this subparagraph, and the denominator of which is the total of exempt and nonexempt contributions to the plan.

**NEW SUBPARAGRAPH.** (5) For all contributions to plans described in subparagraphs (3) and (4), the maximum contribution in each of the two tax years preceding the claim of exemption or filing of a bankruptcy shall be limited to the maximum deductible contribution to an individual retirement account established under section 408(a) of the Internal Revenue Code, regardless of which plan for retirement investment has been chosen by the debtor.

**NEW SUBPARAGRAPH.** (6) Exempt assets transferred from any individual retirement account, individual retirement annuity, Roth individual retirement account, or Roth individual retirement annuity to any other individual retirement account, individual retirement annuity, Roth individual retirement annuity, or Roth individual retirement account established under section 408A of the Internal Revenue Code shall continue to be exempt regardless of the number of times transferred between individual retirement accounts, individual retirement annuities, Roth individual retirement annuities, or Roth individual retirement accounts.

Sec. 3. Section 627.6, subsection 8, paragraph f, subparagraph (3), Code 2001, is amended to read as follows:

(3) For simplified employee pension plans, self-employed pension plans, ~~Keogh plans~~ (also known as Keogh plans or H.R. 10 plans), individual retirement ~~accounts, Roth individual retirement~~ accounts established under section 408(a) of the Internal Revenue Code, individual retirement annuities established under section 408(b) of the Internal Revenue Code, savings incentive matched plans for employees, salary reduction simplified employee pension plans (also known as SARSEPs), and similar plans for retirement investments authorized in the future under federal law, the exemption for contributions shall not exceed, for each tax year of contributions, the actual amount of the contribution deducted for individual retirement accounts and annuities established under section 408 of the Internal Revenue Code or two thousand dollars the maximum amount which could be contributed and deducted in the tax year of the contribution,<sup>1</sup> whichever is less. The exemption for accumulated earnings and market increases in value of plans under this subparagraph shall be limited to an amount determined by multiplying all the accumulated earnings and market increases in value by a fraction, the numerator of which is the total amount of exempt contributions as determined by this subparagraph, and the denominator of which is the total of exempt and nonexempt contributions to the plan.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 25, 2001

<sup>1</sup> See chapter 176, §77 herein

**CHAPTER 81**

## PROCESSING, STORAGE, AND DISTRIBUTION OF HONEY — RESIDENCES

S.F. 62

**AN ACT** relating to the processing and distribution of honey in residences.

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

Section 1. Section 137F.1, subsection 8, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. The premises of a residence in which honey is stored; prepared; packaged, including by placement in a container; labeled; or from which honey is distributed.

Sec. 2. Section 137F.1, subsection 9, Code 2001, is amended to read as follows:

9. "Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer. "Food processing plant" does not include premises any of the following:

a. A premises covered by a class "A" beer permit as provided in chapter 123.

b. A premises of a residence in which honey is stored; prepared; packaged, including by placement in a container; labeled; or from which honey is distributed.

Sec. 3. Section 137F.2, subsection 6, Code 2001, is amended to read as follows:

6. 3-201.11(B) shall be amended to allow ~~food~~ all of the following:

a. Food that is prepared by a home food establishment licensed under chapter 137D to be used or offered for sale.

b. Honey that is stored; prepared; packaged, including by placement in a container; or labeled on or distributed from the premises of a residence.

Approved April 26, 2001

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**CHAPTER 82**

## CITY CABLE TELEVISION FRANCHISES

S.F. 168

**AN ACT** relating to the granting of additional cable television franchises by a city.

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

Section 1. Section 364.2, subsection 4, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. If a city grants more than one cable television franchise, the material terms and conditions of any additional franchise shall not give undue preference or advantage to the new franchisee. A city shall not grant a new franchise that does not include the same territory as that of the existing franchise. A new franchisee shall be given a reasonable period of time to build the new system throughout the territory.

Approved April 26, 2001

## CHAPTER 83

### REAL ESTATE TRANSACTIONS BY ATTORNEY IN FACT — REGULATION — MULTIPLE SIMILAR TRANSACTIONS

S.F. 169

**AN ACT** limiting the exemption from regulation of certain persons acting as an attorney in fact regarding certain real estate transactions.

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

Section 1. Section 543B.7, subsection 2, Code 2001, is amended to read as follows:

2. By any person acting as attorney in fact under a duly executed and acknowledged power of attorney from the owner, to act on behalf of the owner or lessor to authorize the final consummation and execution of any contract for the sale, leasing, or exchange of real estate. The exclusion in this subsection does not apply to a person who, in the regular course of a business operated in the nature of a property management or brokerage business, makes repeated and successive transactions of a like character for compensation.

Approved April 26, 2001

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## CHAPTER 84

### CRIME VICTIM COMPENSATION FUND — USE OF MONEYS

S.F. 259

**AN ACT** relating to the victim rights compensation fund.

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

Section 1. Section 915.94, Code 2001, is amended to read as follows:  
915.94 VICTIM COMPENSATION FUND.

A victim compensation fund is established as a separate fund in the state treasury. Moneys deposited in the fund shall be administered by the department and dedicated to and used for the purposes of section 915.41 and this subchapter. In addition, the department may use moneys from the fund for the purposes of section 236.15 for the purpose of the department's prosecutor-based victim service coordination, including the duties defined in sections 910.3 and 910.6 and chapter 915, and for the award of funds to programs that provide services and support to victims of domestic abuse or sexual assault as provided in chapter 236. The department may also use up to one hundred thousand dollars from the fund to provide training for victim service providers. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

Approved April 26, 2001

**CHAPTER 85****TRANSFER OF STRUCTURED SETTLEMENT PAYMENT  
RIGHTS — TORT AND WORKERS' COMPENSATION CLAIMS**

S.F. 337

**AN ACT** relating to transfers of structured settlement payment rights for tort and workers' compensation claims, providing civil remedies, and an applicability date.

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

Section 1. NEW SECTION. 682.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Structured Settlement Protection Act".

Sec. 2. NEW SECTION. 682.2 DEFINITIONS.

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

1. "Annuity issuer" means an issuer that has issued an insurance contract used to fund periodic payments under a structured settlement.

2. "Dependents" means a payee's spouse and minor children and all other family members and other persons for whom the payee is legally obligated to provide support, including alimony.

3. "Discounted present value" means the fair present value of future payments, as determined by discounting such payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States internal revenue service.

4. "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration.

5. "Independent professional advice" means advice of an attorney, certified public accountant, actuary, or other licensed professional advisor.

6. "Interested parties" means, with respect to a structured settlement, the payee, a beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the structured settlement obligor, and any other party that has continuing rights or obligations under the structured settlement.

7. "Net advance amount" means the gross advance amount less the aggregate amount of the actual and estimated transfer expenses required to be disclosed under section 682.3, subsection 5.

8. "Payee" means an individual who is receiving tax-free payments under a structured settlement and proposes to make a transfer of payment rights.

9. "Periodic payments" means both recurring payments and scheduled future lump sum payments.

10. "Qualified assignment agreement" means an agreement providing for a qualified assignment within the meaning of section 130 of the Internal Revenue Code.

11. "Responsible administrative authority" means, with respect to a structured settlement, any government authority vested by law with exclusive jurisdiction over the settled claim resolved by the structured settlement.

12. "Settled claim" means the original tort claim or workers' compensation claim resolved by a structured settlement.

13. "Structured settlement" means an arrangement for periodic payment of damages for personal injuries established by settlement or judgment in resolution of a tort claim or for periodic payments in settlement of a workers' compensation claim.

14. "Structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

15. "Structured settlement obligor" means, with respect to a structured settlement, the

party that has the continuing periodic payment obligation to the payee under a structured settlement agreement or a qualified assignment agreement.

16. "Structured settlement payment rights" means rights to receive periodic payments under a structured settlement, whether from the structured settlement obligor or the annuity issuer, if any of the following exists:

a. One of the following is true:

(1) The payee is domiciled in this state.

(2) The domicile or principal place of business of a structured settlement obligor or the annuity issuer is located in this state.

b. The structured settlement agreement was approved by a court or responsible administrative authority in this state.

c. The structured settlement agreement is expressly governed by the laws of this state.

17. "Terms of the structured settlement" means, with respect to a structured settlement, the terms of the structured settlement agreement, the annuity contract, any qualified assignment agreement, and any order or approval of any court or responsible administrative authority or other government authority authorizing or approving the structured settlement.

18. "Transfer" means any sale, assignment, pledge, hypothecation, or other alienation or encumbrance of structured settlement payment rights made by a payee for consideration. "Transfer" does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to redirect the structured settlement payments to such insured depository institution, or an agent or successor in interest thereof, or otherwise to enforce such blanket security interest against the structured settlement payment rights.

19. "Transfer agreement" means the agreement providing for transfer of structured settlement payment rights.

20. "Transfer expenses" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, without limitation, court filing fees, attorney fees, escrow fees, lien recordation fees, judgment and lien search fees, finders' fees, commissions, and other payments to a broker or other intermediary. "Transfer expenses" does not include preexisting obligations of the payee payable for the payee's account from the proceeds of a transfer.

21. "Transferee" means a party acquiring or proposing to acquire structured settlement payment rights through a transfer.

### Sec. 3. NEW SECTION. 682.3 REQUIRED DISCLOSURES TO PAYEE.

Not less than three days prior to the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in bold type no smaller than fourteen points, setting forth all of the following:

1. The amounts and due dates of the structured settlement payments to be transferred.

2. The aggregate amount of the structured settlement payments.

3. The discounted present value of the payments to be transferred which shall be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities", and the amount of the applicable federal rate used in calculating the discounted present value.

4. The gross advance amount.

5. An itemized listing of all applicable transfer expenses, other than attorney fees and related disbursements payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of any such fees and disbursements.

6. The net advance amount.

7. The amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee.

8. A statement that the payee has the right to cancel the transfer agreement, without

penalty or further obligation, not later than the third business day after the agreement is signed by the payee.

**Sec. 4. NEW SECTION. 682.4 APPROVAL OF TRANSFERS OF STRUCTURED SETTLEMENT PAYMENT RIGHTS.**

1. A transfer of structured settlement payment rights shall not be effective and a structured settlement obligor or annuity issuer shall not be required to make any payment directly or indirectly to a transferee of structured settlement payment rights unless the transfer has been approved in advance in a final court order or order of a responsible administrative authority based on express findings by such court or responsible administrative authority regarding all of the following:

a. The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents.

b. The payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received such advice or knowingly waived such advice in writing.

c. The transfer does not contravene any applicable statute or the order of any court or other government authority.

2. If the structured settlement agreement or transfer agreement includes a provision requiring the terms of the structured settlement agreement or transfer agreement to remain confidential, the court or responsible administrative authority shall conduct in camera proceedings relating to the approval of the transfer agreement and shall not include any financial terms from the structured settlement agreement or the transfer agreement in the order required under subsection 1.

**Sec. 5. NEW SECTION. 682.5 EFFECTS OF TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS.**

1. The structured settlement obligor and the annuity issuer shall, as to all parties except the transferee, be discharged and released from any and all liability for the transferred payments.

2. The transferee shall be liable to the structured settlement obligor and the annuity issuer for all of the following:

a. If the transfer contravenes the terms of the structured settlement, any taxes incurred by the structured settlement obligor and the annuity issuer as a consequence of the transfer.

b. Any other liabilities or costs, including reasonable costs and attorney fees, arising from compliance by such parties with the order of the court or responsible administrative authority or arising as a consequence of the transferee's failure to comply with this chapter.

3. An annuity issuer and the structured settlement obligor shall not be required to divide any periodic payment between the payee and any transferee or assignee or between two or more transferees or assignees.

4. Any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of this chapter.

**Sec. 6. NEW SECTION. 682.6 PROCEDURE FOR APPROVAL OF TRANSFERS.**

1. An application under this chapter for approval of a transfer of structured settlement payment rights shall be made by the transferee and may be brought in the county in which the payee resides, in the county in which the structured settlement obligor or the annuity issuer maintains its principal place of business, or in any court or before any responsible administrative authority which approved the structured settlement agreement.

2. Not less than twenty days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under section 682.4, the transferee shall file with the court or responsible administrative authority and serve on all interested parties a notice of the proposed transfer and the application for its authorization. All of the following shall be included with the notice:

a. A copy of the transferee's application.

- b. A copy of the transfer agreement.
- c. A copy of the disclosure statement required under section 682.3.
- d. A listing of each of the payee's dependents, together with each dependent's age.
- e. Notification that any interested party is entitled to support, oppose, or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or responsible administrative authority, or by participating in the hearing.
- f. Notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed, which shall not be less than fifteen days after service of the transferee's notice, in order to be considered by the court or responsible administrative authority.

3. If a structured settlement agreement or transfer agreement includes a provision requiring the terms of the structured settlement agreement or transfer agreement to remain confidential, the financial terms of the structured settlement agreement and the transfer agreement shall be made available to the court or responsible administrative authority for purposes of any in camera proceedings, but shall not be disclosed in the copies of the transfer agreement and disclosure statement filed as a part of the public record.

**Sec. 7. NEW SECTION. 682.7 GENERAL PROVISIONS — CONSTRUCTION — PENALTIES.**

1. The provisions of this chapter shall not be waived by a payee.

2. A transfer agreement entered into on or after the thirtieth day after the effective date of this Act by a payee who resides in this state shall provide that disputes under the transfer agreement, including any claim that the payee has breached the agreement, shall be determined under the laws of this state. A transfer agreement shall not authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

3. A transfer of structured settlement payment rights shall not extend to any payments that are life-contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor for both of the following:

a. Periodically confirming the payee's survival.

b. Giving the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

4. A payee who proposes to make a transfer of structured settlement payment rights shall not incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on any failure of the transfer to satisfy the conditions of this chapter.

5. This chapter shall not be construed to authorize any transfer of structured settlement payment rights in contravention of any law or to imply that any transfer under a transfer agreement entered into prior to the effective date of this Act is valid or invalid.

6. Compliance with the requirements set forth in section 682.3 and fulfillment of the conditions set forth in section 682.4 shall be solely the responsibility of the transferee in any transfer of structured settlement payment rights, and neither the structured settlement obligor nor the annuity issuer shall bear any responsibility for, or any liability arising from, noncompliance with the requirements or failure to fulfill the conditions.

**Sec. 8. APPLICABILITY DATE.** This Act shall apply to any transfer of structured settlement payment rights under a transfer agreement entered into on or after the thirtieth day after the effective date of this Act. Nothing contained in this Act shall imply that any transfer under a transfer agreement reached prior to the thirtieth day after the effective date of this Act is effective.

**CHAPTER 86**

## IOWA BATTLE FLAG COLLECTION

H.F. 352

**AN ACT** relating to the administration and care of the Iowa battle flag collection.

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

Section 1. Section 303.2, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Administer, preserve, and interpret the battle flag collection assembled by the state in consultation and coordination with the department<sup>1</sup> of veterans affairs and the department of general services. A portion of the battle flag collection shall be on display at the state capitol and the state historical building at all times, unless on loan approved by the department of cultural affairs.

Approved April 26, 2001

**CHAPTER 87**WORKERS' COMPENSATION AND OTHER LIABILITY —  
MISCELLANEOUS CHANGES

H.F. 356

**AN ACT** relating to administrative and corrective changes to the workers' compensation law and providing an effective date and retroactive applicability.

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

Section 1. Section 85.1A, Code 2001, is amended to read as follows:

85.1A PROPRIETORS, LIMITED LIABILITY COMPANY MEMBERS, LIMITED LIABILITY PARTNERS, AND PARTNERS.

A proprietor, limited liability company member, limited liability partner, or partner who is actively engaged in the proprietor's, limited liability company member's, limited liability partner's, or partner's business on a substantially full-time basis, may elect to be covered by the workers' compensation law of this state by purchasing valid workers' compensation insurance specifically including the proprietor, limited liability company member, limited liability partner, or partner. The election constitutes an assumption by the employer of workers' compensation liability for the proprietor, limited liability company member, limited liability partner, or partner for the time period in which the insurance contract is in force. The proprietor, limited liability company member, limited liability partner, or partner shall accept compensation in the manner provided by the workers' compensation law and the employer is relieved from any other liability for recovery of damages, or other compensation for injury.

Sec. 2. Section 85.27, unnumbered paragraph 3, Code 2001, is amended to read as follows:

Notwithstanding section 85.26, subsection 4, charges believed to be excessive or unnecessary may be referred by the employer, insurance carrier, or health service provider to the workers' compensation commissioner for determination, and the commissioner may utilize the procedures provided in sections 86.38 and 86.39, or set by rule, and conduct such inquiry

<sup>1</sup> State "commission" of veterans affairs probably intended



as the commissioner deems necessary. Any health service provider charges not in dispute shall be paid directly to the health service provider prior to utilization of procedures provided in sections 86.38 and 86.39 or set by rule. A health service provider rendering treatment to an employee whose injury is compensable under this section agrees to be bound by such charges as allowed by the workers' compensation commissioner and shall not recover in law or equity any amount in excess of charges set by the commissioner. When a dispute under chapter 85, ~~85A~~, or ~~85B~~ regarding reasonableness of a fee for medical services arises between a health service provider and an employer or insurance carrier, the health service provider, employer, or insurance carrier shall not seek payment from the injured employee.

Sec. 3. Section 85.35, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The parties to a contested case, or persons who are involved in a dispute which could culminate in a contested case may enter into a settlement of any claim arising under this chapter or chapter 85A, 85B, or 86, providing for final disposition of the claim, provided that no final disposition affecting rights to future benefits may be had when the only dispute is the degree of disability resulting from an injury for which an award for payments or agreement for settlement under section 86.13 has been made. The settlement shall be in writing and submitted to the workers' compensation commissioner for approval.

The parties may agree that settlement proceeds, which are paid in a lump sum, are intended to compensate the injured worker at a given monthly or weekly rate over the life expectancy of the injured worker. If such an agreement is reached, neither the weekly compensation rate which either has been paid, or should have been paid, throughout the case, nor the maximum statutory weekly rate applicable to the injury shall apply. Instead, the rate set forth in the settlement agreement shall be the rate for the case.

PARAGRAPH DIVIDED. The settlement shall not be approved unless evidence of a bona fide dispute exists concerning any of the following:

Sec. 4. Section 85.36, subsection 10, Code 2001, is amended to read as follows:

10. If a wage, or method of calculating a wage, is used for the basis of the payment of a workers' compensation insurance premium for a proprietor, partner, limited liability company member, limited liability partner, or officer of a corporation, the wage or the method of calculating the wage is determinative for purposes of computing the proprietor's, partner's, limited liability company member's, limited liability partner's, or officer's weekly workers' compensation benefit rate.

Sec. 5. Section 85.61, subsection 11, unnumbered paragraph 1, Code 2001, is amended to read as follows:

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

Sec. 6. Section 85.61, subsection 13, paragraph e, Code 2001, is amended to read as follows:

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

Sec. 7. Section 86.26, Code 2001, is amended to read as follows:

#### 86.26 JUDICIAL REVIEW.

Judicial review of decisions or orders of the workers' compensation commissioner may be sought in accordance with chapter 17A. Notwithstanding chapter 17A, the Iowa adminis-

trative procedure Act, petitions for judicial review may be filed in the district court of the county in which the hearing under section 86.17 was held, ~~and the workers' compensation commissioner shall transmit to the reviewing court the original or a certified copy of the entire record of the contested case which is the subject of the petition within thirty days after receiving written notice from the party filing the petition that a petition for judicial review has been filed, and an application for stay of agency action during the pendency of judicial review shall not be filed in the division of workers' compensation of the department of workforce development but shall be filed with the district court.~~ Such a review proceeding shall be accorded priority over other matters pending before the district court.

Sec. 8. Section 627.13, Code 2001, is amended to read as follows:

627.13 WORKERS' COMPENSATION.

~~Any~~ Notwithstanding the provisions of sections 554.9406 and 554.9408, any compensation due or that may become due an employee or dependent under chapter 85, ~~85A, or 85B~~ is exempt from garnishment, attachment, execution, and assignment of income, except for the purposes of enforcing child, spousal, or medical support obligations. For the purposes of enforcing child, spousal, or medical support obligations, an assignment of income, garnishment or attachment of or the execution against compensation due an employee under chapter 85, ~~85A, or 85B~~ is not exempt but shall be limited as specified in 15 U.S.C. § 1673(b).

Sec. 9. Section 668.13, subsection 3, Code 2001, is amended to read as follows:

3. Interest shall be calculated as of the date of judgment at a rate equal to the ~~coupon issue yield equivalent, as determined by the United States secretary of the treasury, of the average accepted auction price for the last auction of fifty two week United States treasury bills~~ treasury constant maturity index published by the federal reserve in the H15 Report settled immediately prior to the date of the judgment plus two percent. The state court administrator shall distribute notice monthly of that rate and any changes to that rate to all district courts.

Sec. 10. Section 9 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to February 28, 2001.

Approved April 26, 2001

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## CHAPTER 88

### CITY ENTERPRISES — FUNDING OF CHILD CARE CENTER CONSTRUCTION AND EQUIPMENT

H.F. 535

**AN ACT** allowing cities to issue general obligation bonds, revenue bonds, or loan agreements to fund the construction and equipping of child care centers and providing an effective date.

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

Section 1. Section 384.24, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. 1. Child care centers providing child care or preschool services, or both. For purposes of this paragraph, "child care" means providing for the care, supervision, and guidance of a child by a person other than the parent, guardian, relative, or custodian for periods of less than twenty-four hours per day on a regular basis. For purposes of this paragraph, "preschool" means child care which provides to children ages three through five,

for periods of time not exceeding three hours per day, programs designed to help the children to develop intellectual skills, and motor skills, and to extend their interest and understanding of the world about them.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 26, 2001

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## CHAPTER 89

### DRAINAGE OR LEVEE DISTRICT ELECTION DISTRICTS — SIZE

H.F. 581

**AN ACT** relating to the size of drainage or levee districts having election districts.

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

Section 1. Section 468.504, Code 2001, is amended to read as follows:  
468.504 ELECTION DISTRICTS.

When a petition has been filed for the election of trustees to manage a district containing ~~three~~ twenty thousand acres or more, the board, or, if the district extends into more than one county, the boards of ~~such the~~ counties by joint action, shall, before the election, divide the district into three election districts for the purpose of securing a proper distribution of trustees in ~~such the~~ district, and ~~such the~~ division shall be so made that each election district will have substantially equal voting power and acreage, as nearly as may be. After ~~such the~~ division is made there shall be elected one trustee for each of ~~said the~~ election districts, but at ~~such the~~ election all the qualified voters for the entire district shall be entitled to vote for each trustee. The division here provided for shall be for the purposes only of a proper distribution of trustees in the district and shall not otherwise affect ~~said the~~ district or its management and control.

Approved April 26, 2001

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## CHAPTER 90

### DEPARTMENT OF TRANSPORTATION RELEASE AND USE OF PERSONAL INFORMATION

H.F. 647

**AN ACT** relating to the release and use of certain personal information by the state department of transportation.

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

Section 1. Section 321.11, subsections 2 and 4, Code 2001, are amended to read as follows:  
2. Notwithstanding subsection 1, personal information shall not be disclosed to a re-

questor, except as provided in ~~Pub. L. No. 106-69, § 350(b) or~~ 18 U.S.C. § 2721, unless the person whose personal information is requested has provided express written consent allowing disclosure of the person's personal information. As used in this section, "personal information" means information that identifies a person, including a person's photograph, social security number, driver's license number, name, address, telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status or a person's zip code.

4. The department shall not ~~sell~~ release personal information ~~which that~~ is in the form of a person's photograph or digital image or a digital reproduction of a person's photograph, to a person other than an officer or employee of a law enforcement agency, an employee of a federal or state agency or political subdivision in the performance of the employee's official duties, a contract employee of the department of inspections and appeals in the conduct of an investigation, or a licensed private investigation agency or a licensed security service or a licensed employee of either, regardless of whether a person has provided express written consent to disclosure of the information. ~~This subsection does not prohibit the~~ The department ~~from collecting~~ may collect reasonable fees for copies of records or other services provided pursuant to this section or section 22.3, 321.10, or 622.46.

Sec. 2. Section 321.189, subsection 2, paragraph c, Code 2001, is amended to read as follows:

c. The department shall ~~advise an applicant that the~~ assign an applicant for a driver's license ~~may request a~~ distinguishing driver's license number other than ~~a~~ the applicant's social security number, ~~as the driver's license number~~ unless the applicant requests that the applicant's social security number be so assigned.

Approved April 26, 2001

## CHAPTER 91

### PURPLE LOOSESTRIFE — BAN ON IMPORT, SALE, OR DISTRIBUTION

S.F. 84

**AN ACT** prohibiting the sale or distribution of purple loosestrife.

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

Section 1. Section 317.25, Code 2001, is amended to read as follows:

317.25 TEASEL, MULTIFLORA ROSE, AND PURPLE LOOSESTRIFE PROHIBITED — EXCEPTIONS.

A person shall not import, sell, offer for sale, or distribute teasel (*Dipsacus*) biennial, the multiflora rose (*rosa multiflora*), purple loosestrife (*lythrum salicaria*), purple loosestrife (*lythrum virgatum*), or seeds of them in any form in this state. However, this section does not prohibit the sale, offer for sale, or distribution of the multiflora rose (*rosa multiflora*) used for understock for either cultivated roses or ornamental shrubs in gardens. ~~This section also does not prohibit the sale, offer for sale, or distribution of varieties of the purple loosestrife (*lythrum virgatum*) when used for ornamental gardens, and which are sterile or nonaggressive according to a list published by the state weed commissioner pursuant to chapter 17A. A person engaged in the business of selling purple loosestrife shall keep accurate records, as specified by the department of agriculture and land stewardship, of each~~

~~variety of purple loosestrife sold, offered for sale, or distributed. The person shall allow the department of agriculture and land stewardship to inspect the records during regular business hours.~~ Any person violating the provisions of this section is subject to a fine of not exceeding one hundred dollars.

Approved April 30, 2001

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## CHAPTER 92

### COUNTY SHERIFF SERVICES — FEES — GARNISHMENT RELEASE

S.F. 184

**AN ACT** relating to duties of the county sheriff by increasing the fees and expenses collected by the county sheriff for various services and the release of a garnishment.

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

Section 1. Section 331.655, subsection 1, paragraphs a, b, c, e, f, g, h, k, l, m, and n, Code 2001, are amended to read as follows:

a. For serving a notice and returning it, for the first person served, ~~ten~~ fifteen dollars, and each additional person, ~~ten~~ fifteen dollars except the fee for serving additional persons in the same household shall be ~~five~~ ten dollars for each additional service, or if the service of notice cannot be made or several attempts are necessary, the repayment of all necessary expenses actually incurred by the sheriff while attempting in good faith to serve the notice.

b. For each warrant served, ~~fifteen~~ twenty dollars, and the repayment of necessary expenses incurred in executing the warrant, as sworn to by the sheriff, or if service of the warrant cannot be made, the repayment of all necessary expenses actually incurred by the sheriff while attempting in good faith to serve the warrant.

c. For serving and returning a subpoena, for each person served, ~~fifteen~~ twenty dollars, and the necessary expenses incurred while serving subpoenas in criminal cases or cases relating to hospitalization of persons with mental illness.

e. For summoning a jury to assess the damages to the owners of lands taken for works of internal improvement, and attending them, ~~sixty one hundred~~ sixty one hundred dollars per day, and necessary expenses incurred. This subsection does not allow a sheriff to make separate charges for different assessments which can be made by the same jury and completed in one day of ten hours.

f. For serving an execution, attachment, order for the delivery of personal property, injunction, or any order of court, and returning it, ~~ten~~ fifteen dollars.

g. For making and executing a certificate or deed for lands sold on execution, or a bill of sale for personal property sold, ~~twenty five~~ thirty dollars.

h. For the time necessarily employed in making an inventory of personal property attached or levied upon, ~~eight~~ ten dollars per hour.

k. For attending sale of property, ~~thirty~~ fifty dollars.

l. For conveying one or more persons to a state, county, or private institution by order of court or commission, necessary expenses for the sheriff and the person conveyed and ~~ten~~ fifteen dollars per hour for the time necessarily employed in going to and from the institution, the expenses and hourly rate to be charged and accounted for as fees. If the sheriff needs assistance in taking a person to an institution, the assistance shall be furnished at the expense of the county.

m. For serving a warrant for the seizure of intoxicating liquors, ~~one dollar~~ five dollars; for the removal and custody of the liquor, actual expenses; for the destruction of the liquor under the order of the court, ~~one dollar~~ five dollars and actual expenses; for posting and leaving notices in these cases, ~~one dollar~~ five dollars and actual expenses.

n. For posting a notice or advertisement, ~~one dollar~~ five dollars.

Sec. 2. Section 642.22, subsection 1, paragraph d, Code 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

d. The garnishment is released by the sheriff at the request of the plaintiff or the plaintiff's attorney.

Approved April 30, 2001

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## CHAPTER 93

### AUTHENTICATION PROCEDURES FOR MEDICATION AND STANDING ORDERS — HOSPITALS

S.F. 242

**AN ACT** relating to the rules regarding the authentication of practitioners' medication and standing orders in hospitals and providing for a repeal.

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

Section 1. NEW SECTION. 135B.7A PROCEDURES — ORDERS.

The department shall adopt rules that require hospitals to establish procedures for authentication of medication and standing orders by a practitioner within a period not to exceed thirty days following a patient's discharge.

Sec. 2. Section 135B.7A is repealed June 30, 2007.

Approved April 30, 2001

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## CHAPTER 94

### NONOPERATIVE AIR BAGS — INSTALLATION, DISTRIBUTION, OR SALE — PENALTY

S.F. 265

**AN ACT** prohibiting the installation, distribution, or sale of nonoperative air bags and providing a penalty.

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

Section 1. NEW SECTION. 321.71A NONOPERATIVE AIR BAGS.

A person shall not install or reinstall for compensation, distribute, or sell a nonoperative

air bag that is part of an inflatable restraint system for a motor vehicle if the person knows that the air bag is nonoperative. A violation of this section is an aggravated misdemeanor punishable by confinement for up to one year and a fine of at least five hundred dollars but not more than five thousand dollars.

For purposes of this section, “nonoperative air bag” includes an air bag that has been previously deployed, is nonfunctional, or is otherwise defective. “Nonoperative air bag” also includes anything that is inserted, or is intended to be inserted, in place of an airbag, which would prohibit an inflatable restraint system from functioning properly.

Approved April 30, 2001

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## CHAPTER 95

### COUNTY BOARD OF SUPERVISORS APPOINTEES — REMOVAL

S.F. 313

**AN ACT** relating to removal of county board of supervisor appointees.

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

Section 1. Section 331.321, subsection 3, Code 2001, is amended to read as follows:

3. Except as otherwise provided by state law, a person appointed ~~to a county office~~ as provided in subsection 1 may be removed by the officer or body making the appointment, ~~but the removal shall be~~ board by written order. The order shall give the reasons and be filed in the office of the auditor, and a copy shall be sent by certified mail to the person removed who, upon request filed with the auditor within thirty days of the date of mailing the copy, shall be granted a public hearing before the board on all issues connected with the removal. The hearing shall be held within thirty days of the date the request is filed, unless the person removed requests a later date.

Approved April 30, 2001

**CHAPTER 96****MILITARY HONOR GUARD SERVICES BY VETERANS ORGANIZATIONS***H.F. 73*

**AN ACT** relating to the performance of honor guard services on public property by recognized military veterans organizations.

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

Section 1. NEW SECTION. 35A.12 MILITARY VETERANS HONOR GUARD SERVICES.

An honor guard unit made up of members of a recognized military veterans organization as listed in section 35A.2 or 37.2 shall be allowed to perform any honor guard service on public property.

Approved April 30, 2001

**CHAPTER 97****INCOME TAXATION OF FOREIGN CORPORATIONS —  
TEMPORARY STORAGE OF GOODS***H.F. 707*

**AN ACT** establishing an interstate distribution center initiative by identifying an activity of a foreign corporation for which a return is not required for state income tax purposes and including effective and retroactive applicability date provisions.

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

Section 1. Section 422.36, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A foreign corporation is not required to file a return if its only activities in Iowa are the storage of goods for a period of sixty consecutive days or less in a warehouse for hire located in this state whereby the foreign corporation transports or causes a carrier to transport such goods to that warehouse and provided that none of the goods are delivered or shipped so as to be included in the gross sales of the corporation within this state as provided in section 422.33, subsection 2, paragraph "b", subparagraph (6).

Sec. 2. **EFFECTIVE AND APPLICABILITY DATES.** This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2001, for tax years beginning on or after that date.

Approved April 30, 2001



## CHAPTER 98

### CITY FRANCHISES — UTILITIES — ELECTIONS

S.F. 57

**AN ACT** relating to approval of city ordinances granting certain utility franchises.

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

Section 1. Section 364.2, subsection 4, paragraph b, Code 2001, is amended to read as follows:

b. ~~No such~~ Such an ordinance shall not become effective unless approved at an election. The proposal may be submitted by the council on its own motion to the voters at any city election. Upon receipt of a valid petition as defined in section 362.4 requesting that a proposal be submitted to the voters, the council shall submit the proposal at the next regular city election or at a special election called for that purpose before the next regular city election. However, the city council may dispense with such election as to the grant, amendment, extension, or renewal of an electric light and power, heating, or gasworks franchise unless there is a valid petition requesting submission of the proposal to the voters, or the party seeking such franchise, grant, amendment, extension, or renewal requests an election. If a majority of those voting approves the proposal the city may proceed as proposed. The complete text of the ordinance shall be included on the ballot, if paper ballots are used. If an electronic voting system or voting machine is used, the proposal shall be stated on the ballot and the full text of the ordinance posted for the voters pursuant to section 52.25. All absentee voters shall receive the full text of the ordinance.

Approved May 2, 2001

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## CHAPTER 99

### ACCELERATED CAREER EDUCATION PROGRAM — ALLOCATION OF PROGRAM JOB CREDITS

S.F. 141

**AN ACT** relating to the allocation of program job credits to program costs under the accelerated career education program and providing effective and retroactive applicability dates.

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

Section 1. Section 260G.4A, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Pursuant to an agreement or a statement of intent to enter into an agreement dated on or after July 1, 2000, program job credits may be allocated retroactively to program costs incurred on or after July 1, 2000.

Sec. 2. **EFFECTIVE DATE — RETROACTIVE APPLICABILITY.** This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 2000, and is applicable on and after that date.

Approved May 2, 2001

**CHAPTER 100**  
**FACTORY-BUILT STRUCTURES — MANUFACTURED**  
**HOME INSTALLER CERTIFICATION**

S.F. 185

**AN ACT** relating to the definition of factory-built structures, the relocation of factory-built structures, the certification of installers of manufactured homes, and providing a fee, an appropriation, and a civil penalty.

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

Section 1. Section 103A.3, subsection 8, Code 2001, is amended to read as follows:

8. "Factory-built structure" means any structure which is, wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation, on a building site. "Factory-built structure" includes the ~~term~~ terms "mobile home" ~~as defined in section 435.1~~, "manufactured home", and "modular home".

Sec. 2. Section 103A.3, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 15A. "Manufactured home", "mobile home", and "modular home" mean the same as defined in section 435.1.

Sec. 3. Section 103A.9, subsection 4, Code 2001, is amended to read as follows:

4. All factory-built structures, without regard to manufacture date, shall be installed in accordance with the code in the governmental subdivisions which have adopted the state building code or any other building code. However, a governmental subdivision shall not require that a factory-built structure, that was manufactured in accordance with federally mandated standards, be renovated in accordance with the state building code or any other building code which the governmental subdivision has adopted when the factory-built structure is being moved from one lawful location ~~within the state~~ to another unless such required renovation is in conformity with those specifications for the factory-built structure which existed when it was manufactured or the factory-built structure is being rented for occupancy.

Existing factory-built structures not constructed to be in compliance with federally mandated standards may be moved from one established mobile home park to another ~~within the state~~ and shall not be required to be renovated to comply with the state building code or any other building code which the governmental subdivision has adopted unless the factory-built structure is being rented for occupancy or has been declared a public nuisance according to standards generally applied to housing.

Sec. 4. NEW SECTION. 103A.26 MANUFACTURED HOME INSTALLERS CERTIFICATION — VIOLATION — CIVIL PENALTY.

1. a. A person who installs a manufactured home for another person shall be certified in accordance with rules adopted by the commissioner pursuant to chapter 17A. The commissioner may assess a fee sufficient to recover the costs of administering the certification of manufactured home installers. The commissioner may suspend or revoke the certification of a manufactured home installer for failure to perform installation of a manufactured home, pursuant to certification standards as provided by rules of the commissioner.

b. Notwithstanding section 103A.23, all fees collected by the commissioner for the administration of the manufactured home program shall be credited to the general fund of the state and are appropriated to the commissioner for the purpose of administering this certification program including the employment of personnel for the enforcement and administration of this program.

2. If a provision of this chapter or a rule adopted pursuant to this chapter relating to the manufacture or installation of a manufactured home is violated, the commissioner may

assess a civil penalty not to exceed one thousand dollars for each offense. Each violation involving a separate manufactured home, or a separate failure or refusal to allow an act to be performed or to perform an act as required by this chapter, or a rule adopted pursuant to this chapter constitutes a separate offense. However, the maximum amount of civil penalties which may be assessed for any series of violations occurring within one year from the date of the first violation shall not exceed one million dollars.<sup>1</sup>

Approved May 2, 2001

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## CHAPTER 101

### CONTROL OF INFECTIOUS OR CONTAGIOUS DISEASES IN CATTLE AND OTHER ANIMALS — PARATUBERCULOSIS

S.F. 209

**AN ACT** providing for livestock, including the control of paratuberculosis, and providing for penalties.

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

Section 1. NEW SECTION. 165A.1 DEFINITIONS.

1. "Concentration point" means a location or facility where cattle are assembled for purposes of sale or resale for feeding, breeding, or slaughtering, and where contact may occur between groups of cattle from various sources. "Concentration point" includes a public stockyard, auction market, street market, state or federal market, untested consignment sales location, buying station, or a livestock dealer's yard, truck, or facility.

2. "Department" means the department of agriculture and land stewardship.

3. "Infected" means infected with paratuberculosis as provided in section 165A.3.

4. "Paratuberculosis" means a disease caused by the bacterium mycobacterium paratuberculosis, and which is also referred to as Johne's disease.

5. "Separate and apart" means to hold cattle so that neither the cattle nor organic material originating from the cattle has physical contact with other animals.

6. "Slaughtering establishment" means a slaughtering establishment operated under the provision of the federal Meat Inspection Act, 21 U.S.C. § 601 et seq., or a slaughtering establishment that has been inspected by the state.

Sec. 2. NEW SECTION. 165A.2 ADMINISTRATION AND ENFORCEMENT.

The provisions of this chapter, including departmental rules adopted pursuant to this chapter, shall be administered and enforced by the department. The department may assess and collect civil penalties against persons in violation of this chapter as provided in section 165A.5. The attorney general may assist the department in the enforcement of this chapter.

Sec. 3. NEW SECTION. 165A.3 DETERMINATION OF INFECTION.

The department shall adopt rules providing methods and procedures to determine whether cattle are infected, which may include detection and analysis of paratuberculosis using techniques approved by the United States department of agriculture.

Sec. 4. NEW SECTION. 165A.4 INFECTED CATTLE.

The owner of infected cattle shall mark the cattle by punching the letter "C" through the right ears of the cattle as required by the department. A person shall not sell infected cattle other than directly to a slaughtering establishment or to a concentration point for sale

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<sup>1</sup> See chapter 176, §61, 82 herein

directly to a slaughtering establishment, for immediate slaughter. Cattle marked with a letter "C" that are kept at a concentration point must be kept separate and apart.

Sec. 5. NEW SECTION. 165A.5 ENFORCEMENT — PENALTY.

1. Except as provided in this subsection, a<sup>1</sup> person violating a provision of this chapter or any rule adopted pursuant to this chapter shall be subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars. The proceeding to assess a civil penalty shall be conducted as a contested case proceeding under chapter 17A.

2. In addition to any other remedies provided, the department may file a petition in the district court seeking an injunction restraining any person from violating provisions of this chapter including a rule adopted pursuant to this chapter.

3. This section does not prevent a person from commencing a civil cause of action based on any right that the person may assert under statute or common law.

Sec. 6. NEW SECTION. 172E.1 DEFINITIONS.

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

1. "Dairy cattle" means cattle belonging to a breed that is used to produce milk for human consumption, including but not limited to holstein and jersey breeds.

2. "Livestock" means the same as defined in section 717.1.

3. "Livestock market" means any place where livestock are assembled from two or more sources for public auction, private sale, or<sup>2</sup> on a commission basis, which is under state or federal supervision, including a livestock auction market, if such livestock are kept in the place for ten days or less.

4. "Packer" means a person who is engaged in the business of slaughtering livestock or receiving, purchasing, or soliciting livestock for slaughter. As used in this chapter, "packer" includes an agent of the packer engaged in buying or soliciting livestock for slaughter on behalf of a packer.

Sec. 7. NEW SECTION. 172E.2 MARKETING PRACTICES — DAIRY CATTLE SOLD FOR SLAUGHTER.

1. If a livestock market accepts dairy cattle upon express written condition that the dairy cattle are to be moved directly to slaughter, the dairy cattle shall be segregated with other livestock to be moved directly to slaughter until sold to a packer. A person shall not knowingly sell the dairy cattle to a purchaser other than to a packer at the livestock market. A person other than a packer shall not knowingly purchase the dairy cattle at the livestock market.

2. This section shall not supersede requirements relating to the movement or marketing of livestock infected with an infectious or contagious disease, including but not limited to those diseases enumerated in section 163.2.

Sec. 8. NEW SECTION. 172E.3 PENALTIES.

1. The department with assistance by the attorney general shall have the same authority to enforce this chapter as it does under chapter 165A. A person who violates section 172E.2 is subject to the same penalties as provided in section 165A.5.

2. This section does not prevent a person from commencing a civil cause of action based on any right that the person may assert under statute or common law.

Sec. 9. PARATUBERCULOSIS TASK FORCE.

1. A paratuberculosis task force is established for purposes of advising the department regarding the administration of chapter 165A as enacted in this Act, including the adoption of rules providing methods and procedures to determine whether cattle are infected. The task force shall study the prevalence of paratuberculosis in this state and methods required to control it, including the effectiveness and practicability of requiring that cattle or only dairy cattle be tested using a test currently or expected to be licensed by the United States department of agriculture to detect the presence of paratuberculosis.

<sup>1</sup> See chapter 176, §62 herein

<sup>2</sup> See chapter 176, §63 herein

2. The task force shall be composed of all of the following:

a. Persons who represent the department of agriculture and land stewardship. One person shall be the state veterinarian who shall serve as the chairperson of the committee. The secretary of agriculture may appoint up to two more persons if necessary who shall be knowledgeable regarding the control of diseases affecting cattle.

b. Persons representing the college of veterinary medicine at Iowa state university who shall be the dean of the college or the dean's designee, the head of serology for the veterinary diagnostic laboratory, the head of the department of veterinary diagnostic and production animal medicine, and the chair of the department of veterinary microbiology and preventive medicine.

c. A person who is a member or officer of the Iowa veterinary medical association who is appointed by the association.

d. Persons actively engaged in the cattle or dairy industry, including a person actively engaged in producing milk who is appointed by the Iowa dairy products association, a person who is actively engaged in producing dairy products who is appointed by the Iowa dairy products association, a person who is actively engaged in producing beef cattle who is appointed by the Iowa cattlemen's association, and a person actively engaged in marketing cattle who is appointed by the livestock marketing association.

3. The task force shall submit a report to the governor and general assembly by January 10, 2002. The report shall contain its findings and any recommendations.

Approved May 2, 2001

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## CHAPTER 102

### INVESTMENTS BY MUNICIPAL UTILITY RETIREMENT SYSTEMS

S.F. 323

**AN ACT** relating to the standard for investment of retirement funds by municipal utilities.

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

Section 1. Section 12B.10, subsection 6, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Investments by municipal utility retirement systems governed under chapter 412.

Sec. 2. Section 12B.10B, subsection 3, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Municipal utility retirement systems governed under chapter 412.

Sec. 3. Section 12B.10C, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Municipal utility retirement systems governed under chapter 412.

Sec. 4. Section 412.4, Code 2001, is amended to read as follows:

**412.4 PAYMENTS AND INVESTMENTS.**

The council, board of waterworks trustees, or other board or commission, whichever is authorized by law to manage and operate any such waterworks, or other municipally owned and operated public utility, shall have the right and power to contract with any legal reserve insurance company authorized to conduct its business in the state, or any bank located in

Iowa having trust powers for the investment of funds contributed to an annuity or pension system, for the payment of the pensions or annuities provided in such pension or annuity retirement system, and may pay the premiums or make the contribution of such contract out of the fund provided in section 412.2. Funds shall be invested in accordance with the investment policy for the retirement fund, as established by the governing body of the public utility. In establishing the investment policy, the council, board or commission shall be governed by the standards set forth in section 97B.7, subsection 2, paragraph "b". However, permissible investments shall be limited to those investments authorized in section 12B.10, subsection 5, and investments in diversified commingled investment funds holding only publicly traded securities and under the management of an investment advisor registered with the federal securities and exchange commission under the Investment Advisor Act of 1940. Funds contributed to a bank pursuant to such a contract shall be invested in the manner prescribed in section 633.123A or chapter 633, division XX, part 4, subpart C, and may be commingled with and invested as a part of a common or master fund managed for the benefit of more than one public utility.

Approved May 2, 2001

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## CHAPTER 103

### STATE REGULATION OF EDUCATION PRACTITIONER RIGHTS, RESPONSIBILITIES, PRACTICES, AND ETHICS

S.F. 336

**AN ACT** relating to the authority of the state board of educational examiners to develop a code of professional rights and responsibilities, practices, and ethics for practitioners.

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

Section 1. Section 272.2, subsection 1, Code 2001, is amended to read as follows:

1. License practitioners, who do not hold or receive a license from another professional licensing board, and professional development programs, except for programs developed and offered by practitioner preparation institutions or area education agencies and approved by the state board of education. Licensing authority includes the authority to establish criteria for the licenses, including but not limited to, issuance and renewal requirements; creation of application and renewal forms; creation of licenses that authorize different instructional functions or specialties; development of a code of professional rights and responsibilities, ~~practice~~ practices, and ethics, which shall, among other things, address the failure of a practitioner to fulfill contractual obligations under section 279.13; and the authority to develop any other classifications, distinctions, and procedures which may be necessary to exercise licensing duties. ~~A code of professional rights and responsibilities, practice, and ethics shall address but not be limited to the habitual failure of a practitioner to fulfill contractual obligations under section 279.13.~~ In addressing the failure of a practitioner to fulfill contractual obligations, the board shall consider factors beyond the practitioner's control.

Approved May 2, 2001

## CHAPTER 104 RESERVE PEACE OFFICERS

H.F. 229

**AN ACT** relating to judicial district departments of correctional services by providing for the establishment of a reserve peace officer force.

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

Section 1. Section 80D.1, Code 2001, is amended to read as follows:

80D.1 ESTABLISHMENT OF A FORCE OF RESERVE PEACE OFFICERS.

The governing body of a city, a county, ~~or~~ the state of Iowa, or a judicial district department of correctional services may provide, either separately or collectively through a chapter 28E agreement, for the establishment of a force of reserve peace officers, and may limit the size of the reserve force. In the case of the state, the department of public safety shall act as the governing body.

This chapter constitutes the only procedure for appointing reserve peace officers.

Sec. 2. Section 80D.4, Code 2001, is amended to read as follows:

80D.4 TRAINING.

Training for individuals appointed as reserve peace officers shall be provided by that law enforcement agency, but may be obtained in a community college or other facility selected by the individual and approved by the law enforcement agency. Upon satisfactory completion of training required by the Iowa law enforcement academy, the chief of police, sheriff, ~~or~~ commissioner of public safety, or director of the judicial district department of correctional services shall certify the individual as a reserve peace officer.

Sec. 3. Section 80D.6, Code 2001, is amended to read as follows:

80D.6 STATUS OF RESERVE PEACE OFFICERS.

Reserve peace officers shall serve as peace officers on the orders and at the discretion of the chief of police, sheriff, ~~or~~ commissioner of public safety or the commissioner's designee, or director of the judicial district department of correctional services or the director's designee, as the case may be.

While in the actual performance of official duties, reserve peace officers shall be vested with the same rights, privileges, obligations, and duties as any other peace officers.

Sec. 4. Section 80D.7, Code 2001, is amended to read as follows:

80D.7 CARRYING WEAPONS.

A member of a reserve force shall not carry a weapon in the line of duty until the member has been approved by the governing body and certified by the Iowa law enforcement academy council to carry weapons. After approval and certification, a reserve peace officer may carry a weapon in the line of duty only when authorized by the chief of police, sheriff, ~~or~~ commissioner of public safety or the commissioner's designee, or director of the judicial district department of correctional services or the director's designee, as the case may be.

Sec. 5. Section 80D.9, Code 2001, is amended to read as follows:

80D.9 SUPERVISION OF RESERVE PEACE OFFICERS.

Reserve peace officers shall be subordinate to regular peace officers, shall not serve as peace officers unless under the direction of regular peace officers, and shall wear a uniform prescribed by the chief of police, sheriff, ~~or~~ commissioner of public safety, or director of the judicial district department of correctional services unless that superior officer designates alternate apparel for use when engaged in assignments involving special investigation, civil process, court duties, jail duties and the handling of mental patients. The reserve peace officer shall not wear an insignia of rank. Each department for which a reserve force is established shall appoint a ~~regular force~~ certified peace officer as the reserve force co-

ordinating and supervising officer. A reserve peace officer force established in a judicial district department of correctional services must be directly supervised by a certified peace officer who is on duty. That ~~regular~~ certified peace officer shall report directly to the chief of police, sheriff, ~~or~~ commissioner of public safety or the commissioner's designee, or director of the judicial district department of correctional services or the director's designee, as the case may be.

Sec. 6. Section 80D.11, Code 2001, is amended to read as follows:

80D.11 EMPLOYEE — PAY.

While performing official duties, each reserve peace officer shall be considered an employee of the governing body which the officer represents and shall be paid a minimum of one dollar per year. The governing body of a city, a county, or the state, ~~or the state,~~ or a judicial district department of correctional services may provide additional monetary assistance for the purchase and maintenance of uniforms and equipment used by reserve peace officers.

Sec. 7. Section 905.4, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 11. Have authority to establish a force of reserve peace officers, either separately or collectively through a chapter 28E agreement, as provided in chapter 80D.

Sec. 8. Section 905.6, subsection 3, Code 2001, is amended to read as follows:

3. Employ, with approval of the district board, and supervise the employees of the district department, including reserve peace officers, if a force of reserve peace officers has been established.

Approved May 2, 2001

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## CHAPTER 105

### REGULATION OF CHILD FOSTER CARE

H.F. 560

**AN ACT** relating to child foster care regulatory requirements and providing an effective date.

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

Section 1. Section 237.3, subsection 2, paragraph f, Code 2001, is amended to read as follows:

f. Housing, health, safety, and medical-care policies for children receiving child foster care. The medical care policies shall include but are not limited to both of the following:

(1) If the health records supplied in accordance with the child's case permanency plan to the foster care provider are incomplete, provision for obtaining additional health information from the child's parent or other source and supplying the additional information to the foster care provider.

(2) Provision for emergency health coverage of the child while the child is engaged in temporary out-of-state travel with the child's foster family.

Sec. 2. Section 237.3, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The department shall adopt rules to administer the exception to the definition of child care in section 237A.1, subsection 3, paragraph "m", allowing a child care facility, for purposes of providing respite care to a foster family home, to provide care,



supervision, or guidance of a child for a period of twenty-four hours or more who is placed with the licensed foster family home.

Sec. 3. Section 237A.1, subsection 3, Code 2001, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** m. A child care facility providing respite care to a licensed foster family home for a period of twenty-four hours or more to a child who is placed with that licensed foster family home.

Sec. 4. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 2, 2001

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## CHAPTER 106

### COMMUNITY EMPOWERMENT INITIATIVE

H.F. 662

**AN ACT** relating to Iowa's community empowerment initiative and providing an effective date.

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

Section 1. Section 28.4, subsection 12, Code 2001, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** e. It is the intent of the general assembly to convene a summit meeting under the auspices of the legislative council during the 2001 legislative interim to consider the issues described in this paragraph "e". In addition to members of the general assembly, those invited to participate in the meeting may include members of the Iowa empowerment board and community empowerment area boards, representatives of the governor, persons participating in community empowerment initiative services, representatives of programs offered through the funding streams enumerated in paragraph "d", and other persons involved in efforts to achieve the desired results identified for the community empowerment initiative. It is anticipated that those participating in the summit meeting will produce a report with findings and recommendations for consideration during the 2002 legislative session. The issues for consideration at the summit meeting may include but are not limited to the following:

(1) Assessing the status of the efforts to achieve full cooperation between the programs offered through the funding streams identified in paragraph "d" and community empowerment area boards in order to avoid duplication, enhance efforts, combine planning, and take other steps to best utilize public funding to meet the needs of the families in the areas. In addition, the summit participants shall make recommendations as to removing barriers or other steps that may be taken so that the programs and community empowerment area board efforts may be more fully integrated.

(2) Implementing an approach to move toward a statewide equalization of the public funding provided for community empowerment initiative programs and other state funding streams directed to similar purposes.

(3) Identifying other age groups or result areas that may be incorporated within or supported by the community empowerment initiative. In addition, consideration may be given

to opportunities identified by the governor for expanding the role of the community empowerment initiative as part of the governor's efforts to reorganize and redirect state government.

(4) Considering other issues, concerns, and opportunities for the community empowerment initiative identified at the local and state levels.

Sec. 2. Section 28.7, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. Designate a public agency of this state, as defined in section 28E.2, a community action agency as defined in section 216A.91, an area education agency established under section 273.2, or a nonprofit corporation, to be the fiscal agent for grant moneys and for other moneys administered by the community board.

Sec. 3. GRANT DISTRIBUTION DIRECTIVE. If an appropriation of at least seventeen million nine hundred thousand dollars is enacted for the fiscal year beginning July 1, 2001, for deposit in the school ready children grants account of the Iowa empowerment fund created in section 28.9, the Iowa empowerment board shall authorize distribution of school ready children grants to designated community empowerment areas in accordance with this section. Those designated community empowerment areas that first received a school ready grant<sup>1</sup> in fiscal year 2000-2001, shall be eligible to receive the school ready children grant amounts provided to those areas in that fiscal year, as annualized for a full fiscal year. All other designated community empowerment areas are eligible to receive a school ready children grant in the same amount as the areas received in fiscal year 2000-2001. In order for the community empowerment areas to receive the grant for which the areas are eligible, the community empowerment area board must submit a written plan amendment extending by one year the area's comprehensive school ready children grant plan developed for providing services for children from birth through five years of age and provide other information specified by the Iowa empowerment board. The amendment may also provide for changes in the programs and services provided under the plan. The Iowa empowerment board shall establish a submission deadline for the plan amendment that allows a reasonable period of time for preparation of the plan amendment and for review and approval or request for modification of the plan amendment by the Iowa empowerment board. In addition, the community empowerment board must continue to comply with reporting provisions and other requirements adopted by the Iowa empowerment board in implementing section 28.8.

Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 2, 2001

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## CHAPTER 107

### DRAINAGE OR LEVEE DISTRICT TAX ASSESSMENT LEVY

*H.F. 711*

**AN ACT** relating to the levy of tax assessments for drainage or levee districts.

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

Section 1. Section 468.52, Code 2001, is amended to read as follows:

468.52 LEVY FOR DEFICIENCY.

If the first assessment made by the board for the original cost or for repairs of any improve-

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<sup>1</sup> School ready "children" grant probably intended

ment is insufficient, the board shall make an additional assessment and levy in the same ratio as the first for either purpose, ~~payable at the next taxpaying period after such indebtedness is incurred subject, however, to the provisions of section 468.57.~~ Any but an assessment made under this section on any tract, parcel, or lot within the district which is computed at less than five dollars shall be fixed at the sum of five dollars. All assessments shall be levied at that time as a tax and, notwithstanding chapter 74A, shall bear interest at a rate determined by the board from that date, payable annually, except as provided as to cash payments within a specified time.

Sec. 2. Section 468.55, Code 2001, is amended to read as follows:

468.55 ASSESSMENTS — MATURITY AND COLLECTION.

~~All~~ If a landowner selects an option provided in section 468.57, all drainage or levee tax assessments become due and payable with the first half of ordinary taxes, and shall be collected in the same manner with the same interest for delinquency and the same manner of enforcing collection by tax sales. As an alternative, the certifying authority may request that the annual installment be payable in two equal payments, one-half with the September payment of ordinary taxes and one-half payable with the March payment of ordinary taxes. All drainage or levee tax assessments not optioned for installment payments by the landowner shall become due and payable within thirty days after the levy of assessments.

Approved May 2, 2001

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## CHAPTER 108

### CONFIDENTIAL PUBLIC RECORDS — COMMUNICATIONS FROM PERSONS OUTSIDE OF GOVERNMENT

S.F. 344

**AN ACT** restricting the exemption in the public records law for communications made to government bodies.

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

Section 1. Section 22.7, subsection 18, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Communications not required by law, rule, ~~or~~ procedure, or contract that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving those communications from such persons outside of government could reasonably believe that those persons would be discouraged from making them to that government body if they were available for general public examination. As used in this subsection, "persons outside of government" does not include persons or employees of persons who are communicating with respect to a consulting or contractual relationship with a government body or who are communicating with a government body with whom an arrangement for compensation exists. Notwithstanding this provision:

Approved May 3, 2001

**CHAPTER 109**

**ADMINISTRATION OF DECEDENTS' ESTATES — MEDICAL ASSISTANCE CLAIMS**

S.F. 354

**AN ACT** relating to limitations on filing medical assistance claims against a decedent's estate.

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

Section 1. NEW SECTION. 633.230A NOTICE IN INTESTATE ESTATES — MEDICAL ASSISTANCE CLAIMS.

Upon opening administration of an intestate estate, the administrator may, in accordance with section 633.410, provide by ordinary mail to the entity designated by the department of human services, a notice of opening administration of the estate and of the appointment of the administrator, which shall include a notice to file claims with the clerk within the later to occur of fifteen months from the second publication of the notice or two months from the date of mailing of this notice, or thereafter be forever barred.

The notice shall be in substantially the following form:

NOTICE OF OPENING ADMINISTRATION OF ESTATE,  
OF APPOINTMENT OF ADMINISTRATOR,  
AND NOTICE TO CREDITOR

In the District Court of Iowa

In and for ..... County.

In the Estate of ....., Deceased

Probate No. ....

To the Department of Human Services who may be interested in the Estate of ....., Deceased, who died on or about ..... (date):

You are hereby notified that on the ..... day of ..... (month), ..... (year), an intestate estate was opened in the above named court and that ..... was appointed administrator of the estate.

You are further notified that the birthdate of the deceased is ..... and the deceased's social security number is ..... The birthdate of the spouse is ..... and the spouse's social security number is ....., and that the spouse of the deceased is alive as of the date of this notice, or deceased as of ..... (date).

You are further notified that the deceased was/was not a disabled or a blind child of the medical assistance recipient by the name of ....., who had a birthdate of ..... and a social security number of ....., and the medical assistance debt of that medical assistance recipient was waived pursuant to section 249A.5, subsection 2, paragraph "a", subparagraph (1), and is now collectible from this estate pursuant to section 249A.5, subsection 2, paragraph "b".

Notice is hereby given that if the department of human services has a claim against the estate for the deceased person or persons named in this notice, the claim shall be filed with the clerk of the above named district court, as provided by law, duly authenticated, for allowance, and unless so filed by the later to occur of fifteen months from the second publication of this notice or two months from the date of the mailing of this notice, unless otherwise allowed or paid, the claim is thereafter forever barred.

Dated this ..... day of ..... (month), ..... (year)

.....  
Administrator of estate

.....  
Address

.....  
Attorney for administrator

.....  
Address

Date of second publication  
..... day of ..... (month), ..... (year)  
(Date to be inserted by publisher)

Sec. 2. NEW SECTION. 633.304A NOTICE OF PROBATE OF WILL — MEDICAL ASSISTANCE CLAIMS.

On admission of a will to probate, the executor may, in accordance with section 633.410, provide by ordinary mail to the entity designated by the department of human services, a notice of admission of the will to probate and of the appointment of the executor, which shall include a notice to file claims with the clerk within the later to occur of fifteen months from the second publication of the notice or two months from the date of mailing of this notice, or thereafter be forever barred.

The notice shall be in substantially the following form:

NOTICE OF PROBATE OF WILL, OF APPOINTMENT  
OF EXECUTOR, AND NOTICE TO CREDITORS

In the District Court of Iowa

In and for ..... County.

In the Estate of ....., Deceased

Probate No. ....

To the Department of Human Services, Who May Be Interested in the Estate of ....., Deceased, who died on or about ..... (date):

You are hereby notified that on the ..... day of ..... (month), ..... (year), the last will and testament of ....., deceased, bearing date of the ..... day of ..... (month), ..... (year), was admitted to probate in the above named court and that ..... was appointed executor of the estate.

You are further notified that the birthdate of the deceased is ..... and the deceased's social security number is ...-.-.... The birthdate of the spouse is ..... and the spouse's social security number is ...-.-...., and that the spouse of the deceased is alive as of the date of this notice, or deceased as of ..... (date).

You are further notified that the deceased was/was not a disabled or a blind child of the medical assistance recipient by the name of ....., who had a birthdate of ..... and a social security number of ...-.-...., and the medical assistance debt of that medical assistance recipient was waived pursuant to section 249A.5, subsection 2, paragraph "a", subparagraph (1), and is now collectible from this estate pursuant to section 249A.5, subsection 2, paragraph "b".

Notice is hereby given that if the department of human services has a claim against the estate for the deceased person or persons named in this notice, the claim shall be filed with the clerk of the above named district court, as provided by law, duly authenticated, for allowance, and unless so filed by the later to occur of fifteen months from the second publication of this notice or two months from the date of mailing of this notice, unless otherwise allowed or paid, the claim is thereafter forever barred.

Dated this ..... day of ..... (month), .....(year)

.....  
Executor of estate

.....  
Address

.....  
Attorney for executor

.....  
Address

Date of second publication  
..... day of ..... (month), ..... (year)  
(Date to be inserted by publisher)

Sec. 3. Section 633.410, Code 2001, is amended to read as follows:

633.410 LIMITATION ON FILING CLAIMS AGAINST DECEDENT'S ESTATE.

1. All claims against a decedent's estate, other than charges, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or otherwise, are forever barred against the estate, the personal representative, and the distributees of the estate, unless filed with the clerk within the later to occur of four months after the date of the second publication of the notice to creditors or, as to each claimant whose identity is reasonably ascertainable, one month after service of notice by ordinary mail to the claimant's last known address.

2. Notwithstanding subsection 1, claims for debts created under section 249A.5, subsection 2, relating to the recovery of medical assistance payments shall be barred under this section unless filed with the clerk within the later to occur of fifteen months after the date of the second publication of the notice to creditors, or two months after service of notice by ordinary mail, on the form prescribed in section 633.230A for intestate estates or on the form prescribed in section 633.304A for testate estates, to the entity designated by the department of human services to receive notice.

3. ~~However, notice~~ Notice is not required to be given by mail to any creditor whose claim will be paid or otherwise satisfied during administration and the personal representative may waive the limitation on filing provided under this section. This section does not bar claims for which there is insurance coverage, to the extent of the coverage, ~~claims for debts created under section 249A.5 relating to the recovery of medical assistance payments,~~ or claimants entitled to equitable relief due to peculiar circumstances.

Approved May 3, 2001

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## CHAPTER 110

### COMPULSORY SCHOOL ATTENDANCE AGE

S.F. 412

**AN ACT** relating to the compulsory attendance age and attendance at school during the regular school calendar by a child who has reached the age of sixteen.

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

Section 1. Section 299.1A, Code 2001, is amended to read as follows:  
299.1A COMPULSORY ATTENDANCE AGE.

A child who has reached the age of six and is under sixteen years of age by September 15 is of compulsory attendance age. However, if a child enrolled in a school district or accredited nonpublic school reaches the age of sixteen on or after September 15, the child remains of compulsory age until the end of the regular school calendar.

Approved May 3, 2001

## CHAPTER 111

### UNEMPLOYMENT COMPENSATION — SOCIAL SECURITY PENSIONS — EMPLOYMENT BY INDIAN TRIBE

S.F. 418

**AN ACT** relating to unemployment compensation by providing that social security pension payments are nondeductible from unemployment benefits and providing for coverage for employment by an Indian tribe and providing an effective date.

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

Section 1. Section 96.5, subsection 5, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Provided, that if the remuneration is less than the benefits which would otherwise be due under this chapter, the individual is entitled to receive for the week, if otherwise eligible, benefits reduced by the amount of the remuneration. Provided further, if benefits were paid for any week under this chapter for a period when benefits, remuneration or compensation under ~~paragraphs~~ paragraph “a”, “b”, or “c”, were paid on a retroactive basis for the same period, or any part thereof, the department shall recover the excess amount of benefits paid by the department for the period, and no employer’s account shall be charged with benefits so paid. However, compensation for service-connected disabilities or compensation for accrued leave based on military service, by the beneficiary, with the armed forces of the United States, irrespective of the amount of the benefit, does not disqualify any individual, otherwise qualified, from any of the benefits contemplated herein. A deduction shall not be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals’ contributions to the pension program.

Sec. 2. Section 96.7, Code 2001, is amended by adding the following new subsection:  
NEW SUBSECTION. 9. INDIAN TRIBES.

a. For purposes of this chapter, employment by an Indian tribe shall be covered in the same manner and terms as provided for governmental entities and the same exclusions that are applicable for governmental entities shall also apply.

b. In financing benefits paid to employees of an Indian tribe under this chapter, a contribution rate shall be determined and contributions shall be assessed and collected from an Indian tribe in the same manner provided in this chapter for contributory employers, except that an Indian tribe shall have the option of electing to become a governmental reimbursable employer. An Indian tribe shall have the option to make a separate election as provided in this paragraph for itself and for each subdivision, subsidiary, or business enterprise wholly owned by the Indian tribe. The reimbursable status of an Indian tribe shall be in the same manner, to the same extent, and on the same terms as are applicable to all governmental reimbursable employers under this chapter.

c. If the department determines that an Indian tribe has failed to make any payment required pursuant to this chapter after providing the Indian tribe with ninety days notice of this failure, the department may issue a determination that ceases coverage of all employment by that Indian tribe until such time as all payments are received by the department.

Sec. 3. Section 96.19, subsection 16, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. An Indian tribe, subject to the requirements of section 96.7, subsection 9.

Sec. 4. Section 96.19, subsection 18, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Except as otherwise provided in this subsection, “employment”

shall include service performed in the employ of an Indian tribe, subject to the requirements of section 96.7, subsection 9.

Sec. 5. Section 96.19, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 25A. "Indian tribe" shall have the meaning given to the term pursuant to section 4(e) of the federal Indian Self-Determination and Education Assistance Act, and shall include any subdivision, subsidiary, or business enterprise wholly owned by such an Indian tribe.

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 3, 2001

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## CHAPTER 112

### DISSOLUTION OF MARRIAGE — FINANCIAL INFORMATION — COURT-APPROVED COURSES

*H.F. 180*

**AN ACT** relating to dissolution of marriage including certain financial statement information filed by the parties and participation in a court-approved course prior to the granting of a final dissolution of marriage decree or the entering of a final custody order.

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

Section 1. Section 598.13, Code 2001, is amended to read as follows:  
598.13 FINANCIAL STATEMENTS FILED.

1. Both parties shall disclose their financial status. A showing of special circumstances shall not be required before the disclosure is ordered. A statement of net worth set forth by affidavit on a form prescribed by the supreme court and furnished without charge by the clerk of the district court shall be filed by each party prior to the dissolution hearing. However, the parties may waive this requirement upon application of both parties and approval by the court.

Failure to comply with the requirements of this ~~section~~ subsection constitutes failure to make discovery as provided in rule of civil procedure 134.

2. The court may, in its discretion, order a trustee to provide, on behalf of a trust, information including but not limited to, trust documents and financial statements relating to any beneficial interest a party to the pending action may have in the trust.

Sec. 2. Section 598.19A, subsections 1 and 3, Code 2001, are amended to read as follows:

1. The court shall order the parties to any action which involves the issues of child custody or visitation to participate in a court-approved course to educate and sensitize the parties to the needs of any child or party during and subsequent to the proceeding within forty-five days of the service of notice and petition for the action or within forty-five days of the service of notice and application for modification of an order. Participation in the course may be waived or delayed by the court for good cause including, but not limited to, a default by any of the parties or a showing that the parties have previously participated in a court-approved course or its equivalent. Participation in the course is not required if the proceeding involves termination of parental rights of any of the parties. A final decree shall not be



granted or a final order shall not be entered until the parties have complied with this section, unless participation in the course is waived or delayed for good cause or is otherwise not required under this subsection.

3. Each party shall submit certification of completion of the course to the court prior to the granting of a final decree or the entry of an order, unless participation in the course is waived or delayed for good cause or is otherwise not required under subsection 1.

Sec. 3. Section 598.19A, Code 2001, is amended by adding the following new subsection:  
**NEW SUBSECTION. 3A.** If participation in the court-approved course is waived or delayed for good cause or is otherwise not required under this section, the court may order that the parties receive the information described in subsection 4 through an alternative format.

Approved May 3, 2001

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## CHAPTER 113

### DETERMINATION AND PRONOUNCEMENT OF DEATH

H.F. 354

**AN ACT** relating to the pronouncement of death by a physician assistant, a licensed practical nurse, or a registered nurse.

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

Section 1. Section 148C.4, Code 2001, is amended to read as follows:  
 148C.4 SERVICES PERFORMED BY ASSISTANTS.

A physician assistant may perform medical services when the services are rendered under the supervision of the physician or physicians specified in the physician assistant license approved by the board. A trainee may perform medical services when the services are rendered within the scope of an approved program. For the purposes of this section, "medical services rendered under the supervision of the physician or physicians specified in the physician assistant license approved by the board" includes making a pronouncement of death for a patient whose death is anticipated if the death occurs in a licensed hospital, a licensed health care facility, a Medicare-certified home health agency, or a Medicare-certified hospice program or facility, with notice of the death to a physician and in accordance with the directions of a physician.

Sec. 2. Section 152.1, subsection 4, Code 2001, is amended by adding the following new paragraph:

**NEW PARAGRAPH. c.** Make the pronouncement of death for a patient whose death is anticipated if the death occurs in a licensed hospital, a licensed health care facility, a Medicare-certified home health agency, or a Medicare-certified hospice program or facility, with notice of the death to a physician and in accordance with any directions of a physician.

Sec. 3. Section 152.1, subsection 6, Code 2001, is amended by adding the following new paragraph after paragraph d:

**NEW PARAGRAPH. dd.** Make the pronouncement of death for a patient whose death is anticipated if the death occurs in a licensed hospital, a licensed health care facility, a Medicare-certified home health agency, or a Medicare-certified hospice program or facility, with notice of the death to a physician and in accordance with any directions of a physician.

Sec. 4. Section 152.1, subsection 6, paragraph e, Code 2001, is amended to read as follows:

e. Apply to the abilities enumerated in paragraphs “a” through “d” “dd” of this subsection scientific principles, including the principles of nursing skills and of biological, physical, and psychosocial sciences.

Sec. 5. Section 702.8, Code 2001, is amended to read as follows:  
702.8 DEATH.

“Death” means the condition determined by the following standard: A person will be considered dead if in the announced opinion of a physician; licensed pursuant to chapter 148, 150, or 150A, a physician assistant licensed pursuant to chapter 148C, or a registered nurse or a licensed practical nurse licensed pursuant to chapter 152, based on ordinary standards of medical practice, that person has experienced an irreversible cessation of spontaneous respiratory and circulatory functions. In the event that artificial means of support preclude a determination that these functions have ceased, a person will be considered dead if in the announced opinion of two physicians, based on ordinary standards of medical practice, that person has experienced an irreversible cessation of spontaneous brain functions. Death will have occurred at the time when the relevant functions ceased.

Approved May 3, 2001

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## CHAPTER 114

### AREA EDUCATION AGENCY ACCREDITATION AND REORGANIZATION OR DISSOLUTION

H.F. 674

**AN ACT** relating to the accreditation and reorganization or dissolution of an area education agency.

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

Section 1. Section 273.10, subsection 3, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Approval, if granted, shall be for a term of ~~three~~ five years. However, the state board may grant conditional approval for a term of less than ~~three~~ five years if conditions warrant.

#### DIVISION \_\_\_\_ REORGANIZATION OR DISSOLUTION

Sec. 2. NEW SECTION. 273.20 DEFINITIONS.

When used in this division, unless the context otherwise requires:

1. “Affected area education agency” or “affected agency” means an area education agency whose board of directors is contemplating or engaged in reorganization efforts in accordance with this division.
2. “Affected board” means the board of directors of an area education agency that is contemplating or engaged in reorganization efforts in accordance with this division.
3. “Department” means the department of education.
4. “State board” means the state board of education.

Sec. 3. NEW SECTION. 273.21 VOLUNTARY REORGANIZATION.

1. Two or more area education agencies may voluntarily reorganize under this division if the area education agencies are contiguous, a majority of the members of each of the affected boards approve the reorganizations, and the reorganization plan submitted to the state board pursuant to subsection 3 is approved by the state board.

2. If twenty percent or more of the school districts within an affected area education agency file a petition by March 1 with the affected area education agency board to consider reorganization, the affected board shall consider the request and vote on the petition. If a majority of the affected board members vote to study the reorganization of the affected area education agency, the affected board shall immediately begin the study to consider reorganization effective by July 1 of the next year.

3. The affected boards contemplating a voluntary reorganization shall do the following:

a. Develop detailed studies of the facilities, property, services, staffing necessities, equipment, programs, and other capabilities available in each of the affected area education agencies for the purpose of providing for the reorganization of the area education agencies in order to effect more economical operation and the attainment of higher standards of educational services for the schools.

b. Survey the school districts within the affected area education agencies to determine the districts' current and future programs and services, professional development, and technology needs.

c. Consult with the officials of school districts within the affected area and other citizens and periodically hold public hearings during the development of a plan for reorganization, as well as a public hearing on the final plan to be submitted to the department.

d. Consult with the director of the department of education in the development of surveys and plans. The director of the department of education shall provide assistance and advice to the affected area education agency boards as requested.

e. Develop a reorganization plan that demonstrates improved efficiency and effectiveness of programs to meet accreditation standards, includes a preliminary budget for reorganized areas, documents public comment from the public hearings held pursuant to paragraph "c", and provides for a board of directors, and the number of members that the board shall consist of, in accordance with section 273.8.

f. Set forth the assets and liabilities of the affected area education agencies, which shall become the responsibility of the board of directors of the newly formed area education agency on the effective date of the reorganization.

g. Transmit the completed plan to the state board by November 1.

4. The state board shall review the reorganization plan and shall, prior to February 1, either approve the plan or return the plan with the state board's recommendations. An unapproved plan may be resubmitted with modifications to the department not later than February 10. An approved plan shall take effect on July 1 of the fiscal year following the date of approval by the state board.

Sec. 4. NEW SECTION. 273.22 CONTRACTS OF NEW AREA EDUCATION AGENCY.

1. The terms of employment of the administrator and staff of affected area education agencies for the school year beginning with the effective date of the formation of the new area education agency shall not be affected by the formation of the new area education agency, except in accordance with the provisions of sections 279.15 to 279.18, and 279.24, and the authority and responsibility to offer new contracts or to continue, modify, or terminate existing contracts pursuant to sections 279.12, 279.13, 279.15 to 279.21, 279.23, and 279.24 for the school year beginning with the effective date of the reorganization shall be transferred from the boards of the existing area education agencies to the board of the new area education agency on the third Tuesday of January prior to the school year the reorganization is effective.

2. The collective bargaining agreement of the area education agency with the largest basic enrollment, as defined in section 257.6, for the year prior to the year the reorganization is effective, shall serve as the base agreement in the new area education agency and the

employees of the other area education agencies involved in the formation of the new area education agency shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. If only one collective bargaining agreement is in effect among the area education agencies that are party to the reorganization, that agreement shall serve as the base agreement, and the employees of the other agencies involved in the formation of the new area education agency shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. The board of the newly formed area education agency, using the base agreement as its existing contract, shall bargain with the combined employees of the affected agencies for the school year beginning with the effective date of the reorganization. The bargaining shall be completed by the dates specified in section 20.17 prior to the school year in which the reorganization becomes effective or within one hundred eighty days after the organization of the new board, whichever is later. If a bargaining agreement was already concluded by the board and employees of the affected agency with the contract serving as the base agreement for the school year beginning with the effective date of the reorganization, that agreement shall be void. However, if the base agreement contains multiyear provisions affecting school years subsequent to the effective year of the reorganization, the base agreement shall remain in effect as specified in the agreement.

The provisions of the base agreement shall apply to the offering of new contracts, or continuation, modification, or termination of existing contracts as provided in subsection 1.

3. The terms of a contract between the board of directors of a school district and the board of directors of an affected area education agency shall be carried out by the school board and the board of directors of the newly formed area education agency except as provided in this section.

4. The board of directors of a school district that is under a contract with an affected area education agency may petition the boards of directors of the affected area education agencies for release from the contract. If the petition receives a majority of the votes cast by the members of the boards of the affected area education agencies, the petition is approved and the contract shall be terminated on the effective date of the area education agency reorganization.

5. The board of directors of a school district that is contiguous to a newly reorganized area education agency may petition the board of directors of a contiguous area education agency to join that area education agency. If the contiguous area education agency board approves the petition, the reorganization shall take effect on July 1 of the school year following approval of the petition by the state board.<sup>1</sup> A school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.<sup>2</sup>

#### Sec. 5. NEW SECTION. 273.23 INITIAL BOARD.

1. A petition filed under section 273.21 shall state the number of directors on the initial board which shall be either seven or nine directors. The petition shall specify the number of directors to be retained from each area, and those numbers shall be proportionate to the populations of the agencies. If the proportionate balance of directors among the affected agencies specified in the plan is affected by school districts petitioning to be excluded from the reorganization, or if the proposal specified in the plan does not comply with the requirement for proportionate representation, the state board shall modify the proposal. However, all area education agencies affected shall retain at least one member.

2. Prior to the organization meeting of the board of directors of the newly formed area education agency, the boards of the former area education agencies shall designate directors to be retained as members to serve on the initial board of the newly formed area education agency. A vacancy occurs if an insufficient number of former board members reside in the newly formed area education agency's boundaries or if an insufficient number of former

<sup>1</sup> See chapter 176, §36 herein

<sup>2</sup> See chapter 176, §37 herein

board members are willing to serve on the board of the newly formed area education agency. Vacancies, as defined in section 277.29, in the membership of the newly formed area education agency board shall be filled for the unexpired portion of the term at a special director district convention called and conducted in the manner provided in section 273.8 for regular director district conventions.

3. Prior to the effective date of the reorganization, the initial board shall call a director district convention under the provisions of section 273.8, subsection 2, for the purpose of electing a board for the reorganized area education agency. The new board shall have control of the employment of all personnel for the newly formed area education agency for the ensuing school year. Following the organization of the new board, the board shall have authority to establish policy, enter into contracts, and complete such planning and take such action as is essential for the efficient management of the newly formed area education agency.

4. The initial board of the newly formed district shall appoint an acting administrator and an acting board secretary. The appointment of the acting administrator shall not be subject to the continuing contract provision of sections 279.20, 279.23, and 279.24.

5. The initial board of the newly formed agency shall prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1 to 273.9 and chapter 256B within the limits of funds provided under section 256B.9 and chapter 257. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county in the territory of the area education agency in which the principal place of business of a school district that is a part of the area education agency is located. The notice shall specify the date, which shall not be later than March 1, the time, and the location of the public hearing. The proposed budget as approved by the board shall be submitted to the state board, on forms provided by the department, no later than March 15 for approval. The state board shall review the proposed budget of the newly formed area education agency and shall before April 1, either grant approval or return the budget without approval with comments of the state board included. An unapproved budget shall be resubmitted to the state board for final approval not later than April 15. The state board shall give final approval only to budgets submitted by area education agencies accredited by the state board or that have been given conditional accreditation by the state board.

6. For the school year beginning on the effective date of an area education agency reorganization as provided in this division, the media services cost per pupil as determined under section 257.37 for all districts in a newly formed area education agency for the budget year shall be the highest amount of media services cost per pupil for any of the affected area education agencies.

7. For the school year beginning on the effective date of an area education agency reorganization as provided in this division, the educational services cost per pupil as determined under section 257.37 for all districts in a newly formed area education agency for the budget year shall be the highest amount of educational services cost per pupil for any of the affected area education agencies.

8. For the school year beginning on the effective date of an area education agency reorganization as provided in this division, the special education support services cost per pupil shall be based upon the combined budgets for special education support services of the area education agencies that reorganized to form the newly formed area education agency, divided by the total of the weighted enrollment for special education support services in the reorganized area education agency for the budget year.

Within one year of the effective date of the reorganization, a newly formed area education agency shall meet the accreditation requirements set forth in section 273.10, and the standards set forth in section 273.11. The newly formed area education agency shall be considered accredited for purposes of budget approval by the state board pursuant to section 273.3. The state board shall inform the newly formed area education agency of the accreditation on-site visit schedule.

Sec. 6. NEW SECTION. 273.24 COMMISSION TO DISSOLVE AREA EDUCATION AGENCY.

1. As an alternative to area education agency reorganization prescribed in this division, the board of directors of an area education agency may establish an area education agency dissolution commission to prepare a proposal of dissolution of the area education agency and attachment of all of the area education agency to one or more contiguous area education agencies and to include in the proposal a division of the assets and liabilities of the dissolving area education agency. If twenty percent or more of the school districts within an area education agency file a petition by March 1 with the area education agency board to consider dissolving, the area education agency board shall consider the request and vote on the petition. If a majority of the board members vote to study dissolving the area education agency, the agency board shall immediately begin a study to consider such action effective by July 1 of the next calendar year or the area education agency board may establish a dissolution commission.

An area education agency dissolution commission established by the board of directors of an area education agency shall consist of a minimum of seven members appointed by the board of directors of the area education agency for a term of office ending either with a report to the board that no proposal can be approved or on the date of the vote on the proposal. Members of the dissolution commission must be board members of school districts within the area served, not more than three of whom may be members of the board of directors of the area education agency. Members shall be appointed from throughout the area served and should represent the various school districts present in the area served.

Members of the dissolution commission shall serve without compensation and may be appointed to a subsequent commission. A vacancy on the commission shall be filled in the same manner as the original appointment was made.

The board of the area education agency shall certify to the department of education that a commission has been formed, the names and addresses of commission members, and that the commission members represent the various geographic areas and socioeconomic elements present in the school districts that the area serves.

Sec. 7. NEW SECTION. 273.25 MEETINGS.

The commission shall hold an organizational meeting not more than fifteen days after its appointment and shall elect a chairperson and vice chairperson from its membership. Thereafter the commission may meet as often as deemed necessary upon the call of the chairperson or a majority of the commission members.

The commission shall request statements from contiguous area education agencies outlining each agency's willingness to accept attachments of the affected area education agency to the contiguous agencies and what conditions, if any, the contiguous agency recommends. The commission shall meet with boards of contiguous area education agencies and with boards of directors of the affected school districts to the extent possible in drawing up the dissolution proposal. The commission may seek assistance from the department of education.

Sec. 8. NEW SECTION. 273.26 DISSOLUTION PROPOSAL.

Not later than one year following the date of the organizational meeting of the commission, the commission shall send a copy of its dissolution proposal to the affected area education agency board or shall inform the affected area education agency board that it cannot agree upon a dissolution proposal. The commission shall also send a copy of the dissolution proposal by certified mail to the boards of directors of all school districts and other area education agencies affected. If the board of a school district or the board of an area education agency affected by the dissolution proposal objects to the proposal, either board shall send its objections in writing to the commission within ten days following receipt of the dissolution proposal. The commission may consider the objections and may modify the dissolution proposal. If the dissolution proposal is modified, the commission shall notify by certified mail the boards of directors of all area education agencies to which

an area of the affected area education agency will be attached and shall notify by certified mail the board of directors of all school districts in the affected area education agencies.

If the commission cannot agree upon a dissolution proposal prior to the expiration of its term, the affected area education agency board may appoint a new commission.

Sec. 9. NEW SECTION. 273.27 HEARING — VOTE — STATE BOARD APPROVAL.

1. Within ten days following the filing of the dissolution proposal with the affected area education agency board, the affected board shall fix a date for a hearing on the proposal which shall not be more than sixty days after the dissolution petition was filed with the affected board. The affected board shall publish notice of the date, time, and location of the hearing at least ten days prior to the date of the hearing by one publication in a newspaper in general circulation in the area. The notice shall include the content of the dissolution proposal. Representatives of school districts in the area served may present evidence and arguments at the hearing. The president of the affected board shall preside at the hearing. The affected board shall review testimony from the hearing and shall adopt or amend and adopt the dissolution proposal.

The affected board shall notify by certified mail the boards of directors of all school districts in the affected area education agency and the contiguous area education agencies to which the districts of the affected area education agency will be attached and the director of the department of education of the contents of the dissolution proposal adopted by the affected board.

2. Within thirty days of the hearing, the affected board shall call a director district convention, which shall include the boards of directors in the area served by the area education agencies to which an area of the affected area education agency will be attached under the dissolution proposal, for the purpose of voting on the dissolution proposal.

3. If the dissolution proposal is approved by a majority of all directors voting on the proposal, the proposal shall be forwarded to the state board by November 1. The state board shall review the dissolution plan proposal and shall prior to January 1 either grant approval for the proposal or return the proposal with recommendations. An unapproved proposal may be resubmitted with modifications to the state board not later than February 1. A proposal shall take effect on July 1 of the fiscal year following the date of approval by the state board.

Approved May 3, 2001

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## CHAPTER 115

### TAXATION OF ELECTRICITY, NATURAL GAS, AND FUELS USED FOR RESIDENTIAL ENERGY

*H.F. 705*

**AN ACT** relating to sales and use taxes on the delivery of electricity and natural gas and to the rate of tax for providing metered gas, electricity, and fuel to provide energy for residential customers.

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

Section 1. Section 422.45, Code 2001, is amended by adding the following new subsection:  
NEW SUBSECTION. 2A. The gross receipts from charges paid for the delivery of electricity or natural gas if the sale, furnishing, or service of the electricity or natural gas or its use

is exempt from the tax on gross receipts imposed under this division or from the use tax imposed under chapter 423.

Sec. 2. Section 422.45, subsection 61, as enacted by 2001 Iowa Acts, House File 1,<sup>1</sup> section 2, is amended to read as follows:

61. a. Subject to paragraph "b", the gross receipts from the sale, furnishing, or service of metered gas, ~~and electricity, to provide energy for~~ and fuel, including propane and heating oil to residential customers ~~and the gross receipts from the sale, furnishing, or service of fuel, including propane and heating oil, which is used to provide heat energy~~ for residential dwellings and units of apartment and condominium complexes used for human occupancy.

b. The exemption in this subsection shall be phased in by means of a reduction in the tax rate as follows:

(1) If the date of the utility billing or meter reading cycle of the residential customer for the sale, furnishing, or service of metered gas and electricity is ~~between on or after~~ between on or after January 1, 2002, ~~and through~~ and through December 31, 2002, or if the sale, furnishing, or service of fuel for heating purposes occurs between of residential energy and the delivery of the fuel occurs on or after January 1, 2002, ~~and through~~ and through December 31, 2002, the rate of tax is four percent of the gross receipts.

(2) If the date of the utility billing or meter reading cycle of the residential customer for the sale, furnishing, or service of metered gas and electricity is ~~between on or after~~ between on or after January 1, 2003, ~~and through~~ and through December 31, 2003, or if the sale, furnishing, or service of fuel for heating purposes occurs between of residential energy and the delivery of the fuel occurs on or after January 1, 2003, ~~and through~~ and through December 31, 2003, the rate of tax is three percent of the gross receipts.

(3) If the date of the utility billing or meter reading cycle of the residential customer for the sale, furnishing, or service of metered gas and electricity is ~~between on or after~~ between on or after January 1, 2004, ~~and through~~ and through December 31, 2004, or if the sale, furnishing, or service of fuel for heating purposes occurs between of residential energy and the delivery of the fuel occurs on or after January 1, 2004, ~~and through~~ and through December 31, 2004, the rate of tax is two percent of the gross receipts.

(4) If the date of the utility billing or meter reading cycle of the residential customer for the sale, furnishing, or service of metered gas and electricity is ~~between on or after~~ between on or after January 1, 2005, ~~and through~~ and through December 31, 2005, or if the sale, furnishing, or service of fuel for heating purposes occurs between of residential energy and the delivery of the fuel occurs on or after January 1, 2005, ~~and through~~ and through December 31, 2005, the rate of tax is one percent of the gross receipts.

(5) If the date of the utility billing or meter reading cycle of the residential customer for the sale, furnishing, or service of metered gas and electricity is on or after January 1, 2006, or if the sale, furnishing, or service of fuel for heating purposes of residential energy and the delivery of the fuel occurs on or after January 1, 2006, the rate of tax is zero percent of the gross receipts.

c. The exemption in this subsection does not apply to local option sales and services tax imposed pursuant to chapters 422B and 422E.

Approved May 3, 2001

<sup>1</sup> Chapter 1 herein



**CHAPTER 116****TAX ADMINISTRATION AND RELATED MATTERS***H.F. 715*

**AN ACT** relating to the administration of the tax and related laws by the department of revenue and finance, including administration of state individual income, corporate income, sales and use, franchise, hotel and motel, environmental protection charge on petroleum diminution, property, cigarette and tobacco products, and inheritance taxes, local option taxes, and including effective and retroactive applicability date provisions.

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

Section 1. Section 15.331A, subsection 2, Code 2001, is amended to read as follows:

2. The eligible business or a supporting business shall, not more than ~~six months~~ one year after project completion, make application to the department for any refund of the amount of the taxes paid pursuant to chapter 422 or 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be made in the manner and upon forms to be provided by the department, and the department shall audit the claim and, if approved, issue a warrant to the eligible business or supporting business in the amount of the sales or use tax which has been paid to the state of Iowa under a contract. A claim filed by the eligible business or a supporting business in accordance with this section shall not be denied by reason of a limitation provision set forth in chapter 421, 422, or 423.

Sec. 2. Section 404.4, unnumbered paragraph 2, Code 2001, is amended to read as follows:

An application shall be filed for each new exemption claimed. The first application for an exemption shall be filed by the owner of the property with the governing body of the city or county in which the property is located by February 1 of the assessment year for which the exemption is first claimed, but not later than the year in which all improvements included in the project are first assessed for taxation, unless, upon the request of the owner at any time, the governing body of the city or county provides by resolution that the owner may file an application by February 1 of any other assessment year selected by the governing body in which case the exemption is allowed for the number of years remaining in the exemption schedule selected. The application shall contain, but not be limited to, the following information: The nature of the improvement, its cost, the estimated or actual date of completion, the tenants that occupied the owner's building on the date the city or county adopted the resolution referred to in section 404.2, subsection 1, and which exemption in section 404.3 or in the different schedule, if one has been adopted, will be elected.

Sec. 3. Section 421.17, subsection 16, Code 2001, is amended to read as follows:

16. To call upon ~~any a~~ a state ~~department~~ agency or institution for technical advice and data which may be of value in connection with the work of ~~assessment and taxation~~ the department.

Sec. 4. Section 421.17, subsection 22A, Code 2001, is amended to read as follows:

22A. To develop, modify, or contract with vendors to create or administer systems or programs which identify nonfilers of returns or nonpayers of taxes administered by the department. Fees for services, reimbursements, costs incurred by the department, or other remuneration ~~paid under contract~~ may be funded from the amount of tax, penalty, or interest, ~~or fees~~ actually collected and shall be paid only after the amount is collected. An amount is appropriated from the amount of tax, penalty, and interest, ~~and fees~~ actually collected, not to exceed the amount collected, which is sufficient to pay for services, reimbursement, costs incurred by the department, or other remuneration pursuant to this subsection. Vendors

entering into a contract with the department pursuant to this subsection are subject to the requirements and penalties of the confidentiality laws of this state regarding tax information. The director shall report annually to the legislative fiscal bureau and the chairpersons and ranking members of the ways and means committees on the amount of costs incurred and paid during the previous fiscal year pursuant to this subsection.

Sec. 5. Section 421B.2, subsection 6, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this chapter, a person who does not meet the definition of retailer or wholesaler but who is engaged in the business of selling cigarettes in this state to a retailer or final consumer shall be considered a retailer and subject to the minimum pricing requirements of this chapter.

Sec. 6. Section 422.7, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 36. Add, to the extent not already included, income from the sale of obligations of the state and its political subdivisions. Income from the sale of these obligations is exempt from the taxes imposed by this division only if the law authorizing these obligations specifically exempts the income from the sale from the state individual income tax.

Sec. 7. Section 422.35, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 18. Add, to the extent not already included, income from the sale of obligations of the state and its political divisions. Income from the sale of these obligations is exempt from the taxes imposed by this division only if the law authorizing these obligations specifically exempts the income from the sale from the state corporate income tax.

Sec. 8. Section 422.47, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 9. Section 422.53, subsection 3, Code 2001, is amended to read as follows:

3. The department shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated or a place of relocation within the state if the ownership remains the same.

Sec. 10. Section 422.61, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. Notwithstanding sections 262.41 and 262.51, or any other provisions of law, income from obligations of the state and its political subdivisions and franchise taxes paid or accrued under this division during the taxable year shall be added. Income from sales of obligations of the state and its political subdivisions and interest and dividend income from these obligations are exempt from the taxes imposed by this division only if the law authorizing the obligations specifically exempts the income from the sale and interest and dividend income from the state franchise tax.

Sec. 11. Section 422.110, unnumbered paragraph 1, Code 2001, is amended to read as follows:

In lieu of the fuel tax refund provided in section 452A.17, a person or corporation subject to taxation under divisions II or III of this chapter may elect to receive an income tax credit. The person or corporation which elects to receive an income tax credit shall cancel its refund permit obtained under section 452A.18 within thirty days after the first day of its tax year or the permit becomes invalid at that time. For the purposes of this section, "person" includes a person claiming a tax credit based upon the person's pro rata share of the earnings from a partnership, limited liability company, or corporation which is not subject to a tax under division II or III of this chapter as a partnership, limited liability company, or corporation. If the election to receive an income tax credit has been made, it remains effective for at least one tax year, and for subsequent tax years unless a change is requested and

a new refund permit applied for within thirty days after the first day of the person's or corporation's tax year. The income tax credit shall be the amount of the Iowa fuel tax paid on fuel purchased by the person or corporation and is subject to the conditions provided in section 452A.17 with the exception that the income tax credit is not available for refunds relating to casualty losses, transport diversions, pumping credits, blending errors, idle time, power takeoffs, reefer units, and exports by ~~eligible purchasers~~ distributors.

Sec. 12. Section 422A.1, Code 2001, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of the hotel and motel tax, the county auditor shall give written notice by sending a copy of the abstract of votes from the favorable election to the director of revenue and finance.

Sec. 13. Section 422B.8, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the gross receipts taxed by the state under chapter 422, division IV. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the gross receipts from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the gross receipts from the rental of rooms, apartments, or sleeping quarters which are taxed under chapter 422A during the period the hotel and motel tax is imposed, on the gross receipts from the sale of equipment by the state department of transportation, on the gross receipts from the sale of self-propelled building equipment, pile drivers, motorized scaffolding, or attachments customarily drawn or attached to self-propelled building equipment, pile drivers, and motorized scaffolding, including auxiliary attachments which improve the performance, safety, operation, or efficiency of the equipment and replacement parts and are directly and primarily used by contractors, subcontractors, and builders for new construction, reconstruction, alterations, expansion, or remodeling of real property or structures, and on the gross receipts from the sale of a lottery ticket or share in a lottery game conducted pursuant to chapter 99E and except the tax shall not be imposed on the gross receipts from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the gross receipts from the sale of natural gas or electric energy are subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state gross receipts taxes. However, a person required to collect state retail sales tax under chapter 422, division IV, is not required to collect local sales and services tax on transactions delivered within the area where the local sales and services tax is imposed unless the person has physical presence in that taxing area. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favor its imposition.

Sec. 14. Section 422B.9, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. A local sales and services tax shall be imposed either January 1 or July 1 following the notification of the director of revenue and finance but not sooner than ninety days following the favorable election. However, a jurisdiction which has voted to continue imposition of the tax may impose that tax without repeal of the prior tax.

Sec. 15. Section 422B.11, subsection 1, paragraph c, Code 2001, is amended to read as follows:

c. The claim is filed on forms provided by the department and is filed within ~~six months~~ one year of the date the tax is paid.

Sec. 16. Section 422E.3, subsection 2, Code 2001, is amended to read as follows:

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

Sec. 17. Section 423.4, subsection 4, Code 2001, is amended to read as follows:

4. ~~Tangible personal property, the~~ The gross receipts from the sale of or rental of tangible personal property or from the rendering, furnishing, or performing of services which are exempted from the retail sales tax by the terms of section 422.45, except subsection 4 and subsection 6 of section 422.45 as it relates to the sale of vehicles subject to registration or subject only to the issuance of a certificate of title and as it relates to aircraft subject to registration under section 328.20.

Sec. 18. Section 424.10, subsection 2, Code 2001, is amended to read as follows:

2. If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the return is required by notice from the department, the department shall determine the amount of charge due from information as the department may be able to obtain and, if necessary, may estimate the charge on the basis of external indices or factors. The department shall give notice of the determination to the person liable for the charge. The determination shall fix the charge unless the person against whom it is assessed shall, within sixty days after the date of the notice of the determination, apply to the director for a hearing or unless the ~~taxpayer~~ person against whom it is assessed contests the determination by paying the ~~tax~~ charge, interest, and penalty and timely filing a claim for refund. At the hearing evidence may be offered to support the determination or to prove that it is incorrect. After the hearing the director shall give notice of the decision to the person liable for the charge.

If a depositor's, receiver's, or other person's challenge relates to the diminution rate, the burden of proof upon the challenger shall only be satisfied by clear and convincing evidence.

Sec. 19. Section 424.13, subsection 2, Code 2001, is amended to read as follows:

2. For cause and upon a showing by the director that collection of the ~~tax~~ charge in dispute is in doubt, the court may order the petitioner to file with the clerk a bond for the use

of the respondent, with sureties approved by the clerk, in the amount of ~~tax~~ the charge appealed from, conditioned that the petitioner shall perform the orders of the court.

Sec. 20. Section 427.1, subsection 16, Code 2001, is amended to read as follows:

16. REVOKING OR MODIFYING EXEMPTION. Any taxpayer or any taxing district may make application to the director of revenue and finance for revocation or modification for any exemption, based upon alleged violations of this chapter. The director of revenue and finance may also on the director's own motion set aside or modify any exemption which has been granted upon property for which exemption is claimed under this chapter. The director of revenue and finance shall give notice by mail to the taxpayer or taxing district applicant and to the societies or organizations claiming an exemption upon property, exemption of which is questioned before or by the director of revenue and finance, and shall hold a hearing prior to issuing any order for revocation or modification. An order made by the director of revenue and finance revoking or modifying an exemption shall be applicable to the tax year commencing with the tax year in which the application is made to the director ~~of revenue and finance~~ or the tax year commencing with the tax year in which the director's own motion is filed. An order made by the director of revenue and finance revoking or modifying an exemption is subject to judicial review in accordance with chapter 17A, the Iowa administrative procedure Act. Notwithstanding the terms of that Act, petitions for judicial review may be filed in the district court having jurisdiction in the county in which the property is located, and must be filed within thirty days after any order revoking or modifying an exemption is made by the director of revenue and finance.

Sec. 21. Section 427A.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Notwithstanding the definition of "attached" in subsection 2, property is not "attached" if it is a fixture used for cooking, refrigeration, or freezing of value-added agricultural products, used in value-added agricultural processing or used in direct support of value-added agricultural processing. For purposes of this subsection, "direct support" includes storage by public refrigerated warehouses for processors of value-added agricultural products. Such fixtures shall not be considered "attached" whether owned directly by the processor or warehouse operator or by another who leases the fixture to the processor or warehouse operator. This subsection shall not apply to fixtures used primarily for retail sale or display.

Sec. 22. Section 427B.19A, subsection 2, Code 2001, is amended to read as follows:

2. If an amount appropriated for a fiscal year is insufficient to pay all claims as a result of action by the general assembly limiting the amount appropriated to the fund, the director shall prorate the disbursements from the fund to the county treasurers and shall notify the county auditors of the pro rata percentage on or before September 30.

Sec. 23. Section 427B.19B, Code 2001, is amended to read as follows:

427B.19B GUARANTEE OF STATE REPLACEMENT FUNDS.

For the fiscal years beginning July 1, 1996, and ending June 30, 2006, if the industrial machinery, equipment and computers property tax replacement fund is insufficient to pay in full the total of the amounts certified to the director of revenue and finance as a result of action by the general assembly limiting the amount appropriated to the fund, the director shall compute for each county the difference between the total of all replacement claims for each taxing district within the county and the amount paid to the county treasurer for disbursement to each taxing district in the county. The assessor, for the assessment year for which taxes are due and payable in the fiscal year for which a sufficient appropriation was not made as a result of action by the general assembly limiting the amount appropriated to the fund, shall revalue all industrial machinery, equipment and computers described in section 427B.17, subsections 2 and 3, in the county at a percentage of net acquisition cost which will yield from each taxing district its shortfall and the property shall be assessed and taxed in such manner for taxes due and payable in the following fiscal year in addition

to being assessed and taxed in the applicable manner under section 427B.17. When conducting the revaluation, the assessor shall increase the percentage of net acquisition cost of such property by the same percentage point. Property tax dollar amounts certified pursuant to this section shall not be considered property tax dollars certified for purposes of the property tax limitation in chapter 444.

Sec. 24. Section 450.10, subsection 4, Code 2001, is amended to read as follows:

4. When the property or any interest ~~therein~~ in property or income ~~therefrom~~ from property, taxable under ~~the provisions of this chapter~~, passes to any firm, corporation, or society organized for profit ~~either under the laws of this state or of any other state, territory, province or country~~, including fraternal and social organizations which do not qualify for exemption under sections 170(c) and 2055 of the Internal Revenue Code, the rate of tax imposed shall be as follows:

Fifteen percent on the entire amount so passing.

Sec. 25. Section 453A.2, subsection 4, Code 2001, is amended to read as follows:

4. The Iowa department of public health, a county health department, a city health department, or a city may directly enforce this section in district court and initiate proceedings pursuant to section 453A.22 before a permit-issuing authority which issued the permit against a permit holder violating this section.

Sec. 26. Section 499B.11, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 27. IMPLEMENTATION OF ACT. Section 25B.7 does not apply to the exemption provided in new subsection 3A of section 427A.1 as enacted in this Act.

Sec. 28. EFFECTIVE AND APPLICABILITY DATES.

1. The sections of this Act amending Code sections 422.7, 422.35, and 422.61, relating to income exemptions, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 2001, for tax years beginning on or after that date.

2. The section of this Act amending Code section 450.10, relating to property passing to certain types of legal entities, takes effect July 1, 2001, for estates of decedents dying on or after that date.

3. The section of this Act amending section 427A.1, relating to fixtures used in value-added agricultural processing, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2000, for assessment years beginning on or after that date.

Approved May 3, 2001

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**CHAPTER 117**  
APPEALS FROM JUVENILE COURT  
S.F. 392

**AN ACT** relating to appeals filed in juvenile court proceedings.

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

Section 1. Section 232.133, subsections 1 and 2, Code 2001, are amended to read as follows:

1. An interested party aggrieved by an order or decree of the juvenile court may appeal

from the court for review of questions of law or fact. However, an order adjudicating a child to have committed a delinquent act, entered pursuant to section 232.47, shall not be appealed until the court enters a corresponding dispositional order pursuant to section 232.52. An appeal that affects the custody of a child shall be heard at the earliest practicable time.

2. ~~The procedure for such~~ Except for appeals ~~from an order entered pursuant to section 232.117, appellate procedures~~ shall be governed by the same provisions applicable to appeals from the district court ~~provided that when such order or decree affects the custody of a child the appeal shall be heard at the earliest practicable time.~~ The supreme court may prescribe rules to expedite the resolution of appeals from final orders entered pursuant to section 232.117.

Approved May 7, 2001

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## CHAPTER 118

### INDUSTRIES, TRANSACTIONS, AND PERSONS REGULATED BY COMMISSIONER OF INSURANCE

S.F. 473

**AN ACT** concerning regulated industries under the jurisdiction of the commissioner of insurance relating to various issues relating to insurance, relating to the regulation of securities, by defining the terms “agent” and “security”, providing registration requirements, providing for disciplinary actions, imposing fees and civil penalties, providing for testimony and the production of evidence, authorizing cooperation with law enforcement entities, providing criminal penalties, and eliminating reporting requirements, and relating to cemetery and funeral merchandise and funeral services, establishing permit and purchase agreement requirements, establishing and appropriating fees, and providing administration, enforcement, and liquidation procedures, and penalties.

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

Section 1. Section 502.102, subsection 3, paragraph a, subparagraph (3), Code 2001, is amended to read as follows:

(3) Effecting transactions in a federal covered security as described in sections 18(b)(3) and 18(b)(4)(D) of the Securities Act of 1933 as amended in Pub. L. No. 104-290, if a commission or other remuneration is not either directly or indirectly paid any person for soliciting in this state.

Sec. 2. Section 502.102, subsection 19, Code 2001, is amended to read as follows:

19. “Security” means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; viatical settlement contract, or any fractional or pooled interest in such contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under such a lease, right, or royalty; an interest in a limited liability company or in a limited liability partnership or any class or series of such interest, including any fractional or other interest in such interest; or, in general, any interest or instrument commonly known as a “security”, or any certificate of

interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period. "Security" also does not include an interest in a limited liability company or a limited liability partnership if the person claiming that such an interest is not a security proves that all of the members of the limited liability company or limited liability partnership are actively engaged in the management of the limited liability company or limited liability partnership; provided that the evidence that members vote or have the right to vote, or the right to information concerning the business and affairs of the limited liability company or limited liability partnership, or the right to participate in management, shall not establish, without more, that all members are actively engaged in the management of the limited liability company or limited liability partnership. "Security" is any of the foregoing as provided in this subsection whether or not it is evidenced by a written instrument.

Sec. 3. Section 502.203, subsection 18, Code 2001, is amended to read as follows:

18. An offer or sale of securities which are exempt from registration under 15 U.S.C. § 77a-77aa pursuant to rule 801 or 802 promulgated by the securities and exchange commission as provided in the Securities Act of 1933.

19. Any other security or transaction or offering or class of securities or transactions or offers exempted or requirements for exemption waived, by the administrator by rule or order, from requirements provided in section 502.201 or 502.602.

Sec. 4. Section 502.207A, subsection 7, Code 2001, is amended to read as follows:

7. Notwithstanding any other provision of this chapter, the administrator shall not deny effectiveness to or suspend or revoke the effectiveness of a registration under this section on the basis of section 502.209, subsection 1, paragraph "h", and the administrator shall not impose the conditions specified in section 502.208, subsection 8, subsection 9, paragraph "b", or subsection 12. ~~The administrator may issue a stop order pursuant to section 502.209 to filers under this section for any of the following additional reasons:~~

- ~~a. The issuer's principal place of business is not in this state.~~
- ~~b. At least fifty percent of the issuer's full-time employees are not located in this state.~~
- ~~e. At least eighty percent of the net proceeds of the offering are not going to be used in connection with the operations of the issuer in this state.~~
- ~~d. If the issuer is a seed or venture capital fund, at least fifty percent of the moneys received from the sale of the securities will not be used to make seed or venture capital investments in this state.~~

Sec. 5. Section 502.302, subsections 1 and 3, Code 2001, are amended to read as follows:

1. A broker-dealer, agent, investment adviser, or investment adviser representative may obtain an initial or renewal license by filing with the administrator, or ~~an organization person~~ which the administrator by rule ~~designates~~ assigns as a designee, an application together with a consent to service of process pursuant to section 502.609 and the appropriate filing fee as required in this section. If the application is filed with a designee, the applicant must also pay any reasonable costs charged by the designee. The applicant may transmit the fee to the administrator through the designee according to rules adopted by the administrator. The application shall contain information the administrator requires by rule concerning the applicant's form and place of organization, proposed method of doing business and financial condition, and the qualifications and experience of the applicant. In the case of a broker-dealer or investment adviser, the application shall include the qualifications and experience of any partner, officer, director or controlling person, any injunction or administrative order or conviction of a misdemeanor involving securities and any conviction of a felony, and any other matters which the administrator determines are relevant to the appli-



cation. In addition, in the case of an investment adviser, the application shall include any information to be furnished or disseminated to any client or prospective client, and any other information which the administrator determines is relevant to the application. If no denial order is in effect and no proceeding is pending under section 502.304, registration becomes effective at noon of the sixtieth day after a completed application or an amendment completing the application is filed, unless waived by the applicant. The administrator may by rule or order specify an earlier effective date.

3. Every applicant for initial or renewal registration as a broker-dealer ~~or investment adviser~~ shall pay a filing fee of two hundred dollars. Every applicant for an initial or renewal registration as an investment adviser shall pay a filing fee of one hundred dollars. Every applicant for initial or renewal registration as an agent or investment adviser representative shall pay a filing fee of thirty dollars. However, an investment adviser representative is not required to pay a filing fee if the investment adviser is a sole proprietorship or the substantial equivalent and the investment adviser representative is the same individual as the investment adviser. A filing fee is not refundable. Every person acting as a federal covered adviser in this state, except with respect to federal covered advisers whose only clients are those described in section 502.301, subsection 3, paragraph "b", shall pay an initial and renewal notice filing fee of one hundred dollars.

Sec. 6. Section 502.304, subsection 1, paragraph m, subparagraph (1), Code 2001, is amended to read as follows:

(1) Has willfully violated the law of a foreign jurisdiction governing or regulating any aspect of the business of securities, insurance, or banking.

Sec. 7. Section 502.304, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. o. Is the subject of a cease and desist order issued by the administrator under section 502.604, another state, or the securities and exchange commission.

Sec. 8. Section 502.304, subsection 8, Code 2001, is amended to read as follows:

8. A civil penalty ~~levied~~ imposed under subsection 1 shall not exceed ~~one~~ five thousand dollars per violation per person and shall not exceed ~~one~~ five hundred thousand dollars in a single proceeding against any one person. ~~All administrative fines~~ Moneys received from the imposition of civil penalties shall be deposited in the general fund of the state.

Sec. 9. Section 502.603, subsection 3, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

3. A person is not excused from attending or testifying in a proceeding required by this section, or from producing any evidence, including a document or record in obedience to a subpoena of the administrator or any officer designated by the administrator, on the ground that the testimony or evidence required, whether documentary or otherwise, may tend to incriminate such person or subject such person to a penalty or forfeiture. If a person makes a claim against self-incrimination, the administrator may file a petition to compel compliance with this section in the district court for Polk county. The court may make a threshold determination on the applicability of the self-incrimination privilege. Any evidence compelled under order of the district court, or any information directly or indirectly derived from such evidence or other information, shall not be used against the person in any criminal case. The limitation on the use of evidence in a criminal proceeding contained in this section does not apply to any prosecution or proceeding for perjury or contempt of court committed in the course of giving or producing information, documents, testimony, or other evidence.

Sec. 10. Section 502.604, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If it appears to the administrator that a person has engaged or is about to engage in an act

or practice constituting a violation of this chapter or any rule or order adopted or issued pursuant to this chapter, the administrator may do ~~either or both~~ any of the following:

Sec. 11. Section 502.604, Code 2001, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 3. Assess a civil penalty against the person, if the violation was made knowingly or recklessly. The penalty shall be assessed as an agency action provided for under chapter 17A. The amount of the civil penalty shall not exceed five thousand dollars for each violation.

Sec. 12. **NEW SECTION.** 502.604B LIMITED LAW ENFORCEMENT AUTHORITY.  
The administrator or designee, when carrying out the provisions of section 502.603, 502.603A, or 502.604, may develop, share, and receive information related to any law enforcement purpose, including any criminal investigation. The administrator or designee shall not have the authority to issue criminal subpoenas or make arrests. The administrator or designee shall not be considered a peace officer, including as provided in chapter 801.

Sec. 13. Section 502.605, subsection 1, Code 2001, is amended to read as follows:  
1. a. Except as provided in paragraph “b”, a person who willfully ~~and knowingly~~ violates any provision of this chapter, or any rule or order under this chapter, is guilty of a class “D” felony.  
b. A person who willfully ~~and knowingly~~ violates section 502.401, 502.402, or 502.403, or section 502.408, subsection 1 or 2, resulting in a loss of more than ten thousand dollars is guilty of a class “C” felony.

Sec. 14. Section 502.605, Code 2001, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 4. In a criminal proceeding brought under this chapter, the applicability of any exemption, exception, exclusion from a definition, or preemption shall be an affirmative defense. The defendant claiming such an exemption, exception, exclusion, or preemption has the burden of going forward with the evidence of the claim.

Sec. 15. Section 507B.4, subsection 10B, unnumbered paragraph 1, as enacted by 2001 Iowa Acts, Senate File 500,<sup>1</sup> section 7, is amended to read as follows:  
Failure of an insurer to pay interest at the rate of ten percent per annum on all health insurance claims that the insurer fails to timely accept and pay pursuant to section 507B.4A, subsection ~~1~~ 2, paragraph “e” “d”. Interest shall accrue commencing on the thirty-first day after receipt of all properly completed proof of loss forms.

Sec. 16. Section 518.16, Code 2001, is amended to read as follows:  
518.16 QUALIFICATION OF AGENTS.  
A person shall not solicit any application for insurance for an association in this state without having procured from the commissioner of insurance a license authorizing the person to act as an ~~agent~~ insurance producer pursuant to chapter ~~522~~ 522B.<sup>2</sup>

#### SUBCHAPTER 1 SHORT TITLE AND DEFINITIONS

Sec. 17. **NEW SECTION.** 523A.101 SHORT TITLE.  
This chapter may be cited as the “Iowa Cemetery and Funeral Merchandise and Funeral Services Act”.

Sec. 18. **NEW SECTION.** 523A.102 DEFINITIONS.  
For purposes of this chapter, unless the context otherwise requires:  
1. “Authorized to do business within this state” means a person licensed, registered, or subject to regulation by an agency of the state of Iowa or who has filed a consent to service of process with the commissioner for purposes of this chapter.

<sup>1</sup> Chapter 69 herein

<sup>2</sup> See chapter 16 herein

2. "Beneficiary" means any natural person specified or included in a purchase agreement, upon whose future death cemetery merchandise, funeral merchandise, funeral services, or a combination thereof are to be provided under the purchase agreement.

3. "Burial account" means an account established by a person with a financial institution for the purpose of funding the future purchase of cemetery merchandise, funeral merchandise, or a combination thereof without any related trust agreement.

4. "Burial trust fund" means an irrevocable burial trust fund established by a person with a financial institution for the purpose of funding the future purchase of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof upon the death of the person named in the burial trust fund's records or a related purchase agreement. "Burial trust fund" does not include or imply the existence of any oral or written purchase agreement for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof between the person and a seller.

5. "Cemetery merchandise" means foundations, grave markers, tombstones, ornamental merchandise, memorials, and monuments sold under a purchase agreement that does not require installation within twelve months of the purchase.

6. "Commissioner" means the commissioner of insurance or the deputy administrator authorized in section 523A.801 to the extent the commissioner delegates functions to the deputy administrator.

7. "Common business enterprise" means a group of two or more business entities that share common ownership in excess of fifty percent.

8. "Credit sale" means a sale of goods, services, or an interest in land in which all of the following are applicable:

a. Credit is granted either under a seller credit card or by a seller who regularly engages as a seller in credit transactions of the same kind.

b. The buyer is a person other than an organization.

c. The goods, services, or interest in land are purchased primarily for a personal, family, or household purpose.

d. Either the debt is payable in installments or a finance charge is made.

e. For goods and services, the amount financed does not exceed twenty-five thousand dollars.

9. "Delivery" occurs when:

a. The cemetery merchandise, funeral merchandise, or the title document establishing an easement for burial rights is physically delivered to the purchaser or installed, except that burial of any item at the site of its ultimate use shall not constitute delivery for purposes of this chapter.

b. If authorized by a purchaser under a purchase agreement, cemetery merchandise has been permanently identified with the name of the purchaser or the beneficiary and delivered to a bonded warehouse or storage facility approved by the commissioner and both title to the merchandise and a warehouse receipt have been delivered to the purchaser or beneficiary and a copy of the warehouse receipt has been delivered to the establishment for retention in its files.

c. If authorized by a purchaser under a purchase agreement, a polystyrene or polypropylene outer burial container has been permanently identified with the name of the purchaser or the beneficiary and delivered to a bonded warehouse or storage facility approved by the commissioner and both title to the merchandise and a warehouse receipt have been delivered to the purchaser or beneficiary and a copy of the warehouse receipt has been delivered to the establishment for retention in its files.

10. "Doing business in this state" means issuing or performing wholly or in part any term of a purchase agreement executed within the state of Iowa.

11. "Establishment" means each business establishment that advertises, sells, promotes, or offers cemetery merchandise, funeral merchandise, funeral services, or a combination thereof prior to the death of the person named or implied in a purchase agreement.

12. "Financial institution" means a state or federally insured bank, savings and loan association, credit union, trust department thereof, or a trust company authorized to do business within this state and which has been granted trust powers under the laws of this state or the United States, which holds funds under a trust agreement. "Financial institution" does not include:

a. A seller.

b. Anyone employed by or directly involved with the seller in the seller's cemetery merchandise, funeral merchandise, or funeral services business.

13. "Funeral merchandise" means personal property used for the final disposition of a dead human body, including but not limited to clothing, caskets, vaults, urns, and interment receptacles. "Funeral merchandise" does not include easements for burial rights in a completed space or cemetery merchandise.

14. "Funeral services" means services provided for the final disposition of a dead human body, including but not limited to services necessarily or customarily provided for a funeral, or for the interment, entombment, or cremation of a dead human body, or any combination thereof. "Funeral services" does not include perpetual care or maintenance.

15. "Inner burial container" means a container in which human remains are placed for burial or entombment. Where only one container is used for burial or entombment, "inner burial container" includes a container serving as a burial vault, urn vault, grave box, grave liner, or lawn crypt.

16. "Insolvent" means the inability to pay debts as they become due in the usual course of business.

17. "Interest or income" means unrealized net appreciation or loss in the fair value of cemetery merchandise, funeral merchandise, and funeral services trust assets for which a market value may be determined with reasonable certainty, plus the return in money or property derived from the use of trust principal or income, net of investment losses, taxes, and expenses incurred in the sale of trust assets, any cost of the operation of the trust, and any annual audit fee. "Interest or income" includes but is not limited to:

a. Rent of real or personal property, including sums received for cancellation or renewal of a lease and any royalties.

b. Interest on money lent, including sums received as consideration for prepayment of principal.

c. Cash dividends paid on corporate stock.

d. Interest paid on deposit funds or debt obligations.

e. Gain realized from the sale of trust assets.

18. "Next of kin" means the surviving spouse and heirs at law of the deceased.

19. "Nonguaranteed" means that the price of the merchandise and services selected has not been fixed or guaranteed and will be determined by existing prices at the time the merchandise and services are delivered or provided.

20. "Outer burial container" means a container used for the burial of human remains that is used exclusively to surround or enclose an inner burial container and to support the earth above the container, commonly known as a burial vault, urn vault, grave box, or grave liner, but not including a lawn crypt.

21. "Parent company" means a corporation that has a controlling interest in an establishment.

22. "Person" means an individual, business, corporation, trust, firm, partnership, association, or any other legal entity.

23. "Personal representative" means a personal representative as defined in section 633.3.

24. "Provider" means a person that provides funeral services, funeral merchandise, or cemetery merchandise purchased in a purchase agreement.

25. "Purchase agreement" means an agreement to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following the initial payment on the account.

26. "Purchase price" means the negotiated price for the item of merchandise or service, if itemized in the purchase agreement, or the price of the item listed in the seller's general price list at the time the purchase agreement is signed.

27. "Purchaser" means a person who purchases cemetery merchandise, funeral merchandise, funeral services, or a combination thereof. The purchaser need not be a beneficiary of the agreement.

28. "Seller" means a person doing business within this state, including a person doing business within this state who sells insurance, who advertises, sells, promotes, or offers to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following the initial payment on the account whether the transaction is completed or offered in person, through the mail, over the telephone, by the internet, or through any other means of commerce. "Seller" includes any person performing any term of a purchase agreement executed within this state, and any person identified under a burial account as the provider of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

29. "Total purchase price" means the aggregate amount the purchaser is obligated to pay for merchandise or services pursuant to the purchase agreement, excluding any taxes, administrative charges, or financing charges.

## SUBCHAPTER 2 ESTABLISHMENT OF TRUSTS, DEPOSIT, INVESTMENT, AND REPORTING REQUIREMENTS

### Sec. 19. NEW SECTION. 523A.201 ESTABLISHMENT OF TRUST FUNDS.

Unless proceeding under section 523A.401, 523A.402, or 523A.403, a seller must establish a trust fund prior to advertising, selling, promoting, or offering cemetery merchandise, funeral merchandise, funeral services, or a combination thereof in this state as follows:

1. The trust fund must be established at a financial institution.
2. If a seller agrees to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof and performance or delivery may be more than one hundred twenty days following the initial payment on the account, a minimum of eighty percent of all payments made under the purchase agreement shall be placed and remain in trust until the person for whose benefit the funds were paid dies.
3. If a purchase agreement for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof provides that payments are to be made in installments, the seller shall deposit eighty percent of each payment in the trust fund until the full amount required to be placed in trust has been deposited. If the purchase agreement is financed with or sold to a financial institution, the purchase agreement shall be considered paid in full and the trust requirements shall be satisfied within fifteen days after the close of the month in which the seller receives funds from the financial institution.
4. A seller shall not invade the trust principal for any purpose.
5. A seller who lacks insurance coverage which protects against the loss of purchaser payments not placed in trust within the time period required by this section and section 523A.202 shall not commingle these payments with any other seller funds. A seller who lacks insurance coverage may use one or more of the following methods to dispose of these payments:
  - a. Deposit purchaser funds into an escrow account until the required amount has been deposited into a trust account at a financial institution.
  - b. Make a prior delivery or warehouse cemetery or funeral merchandise or a combination thereof as provided by this chapter.
  - c. Make a prior filing of a surety bond in lieu of establishing a trust fund as required by this section.
  - d. Make a simultaneous, same-day deposit of the purchaser's payments into the seller's bank account and the required amount into the seller's trust fund.

6. Payments otherwise subject to this section are not exempt merely because they are held in certificates of deposit.

7. Commingling of trust funds with other funds of the seller is prohibited.

8. Interest or income earned on amounts deposited in trust shall remain in trust under the same terms and conditions as payments made under the purchase agreement, except that the seller may withdraw so much of the interest or income as represents the difference between the amount needed to adjust the trust funds for inflation as set by the commissioner based on the consumer price index and the interest or income earned during the preceding year not to exceed fifty percent of the total interest or income on a calendar-year basis. The early withdrawal of interest or income under this provision does not affect the purchaser's right to a credit of such interest or income in the event of a nonguaranteed price agreement, cancellation, or nonperformance by the seller.

9. The commissioner may require amendments to a trust agreement not in accord with the provisions of this chapter.

10. If a seller voluntarily or involuntarily ceases doing business and the seller's obligation to provide merchandise or services has not been assumed by another establishment holding a current establishment permit, all trust funds, including accrued interest or income, shall be repaid to the purchaser within one hundred twenty days following the seller's cessation of business or, in the event of circumstances where a payment is not possible within one hundred twenty days, as soon as is reasonably practicable.

Sec. 20. NEW SECTION. 523A.202 TRUST FUND DEPOSIT REQUIREMENTS.

1. All funds held in trust pursuant to section 523A.201 shall be deposited in a financial institution, within fifteen days after the close of the month a seller receives the funds. The financial institution shall hold the funds for the designated beneficiary until released.

2. All funds required to be deposited by the purchaser for a purpose described in section 523A.201 shall be deposited consistent with one of the following methods:

a. The payments shall be deposited directly into an interest-bearing burial account in the purchaser's name.

b. The purchaser shall deposit payments directly into a separate trust account in the purchaser's name. The account may be made payable to the seller upon the death of the purchaser or the designated beneficiary, provided that, until death, the purchaser retains the exclusive power to hold, manage, pledge, and invest the trust account funds and may revoke the trust and withdraw the funds, in whole or in part, at any time during the term of the agreement.

c. The purchaser or the seller shall deposit payments directly into a separate trust account in the name of the purchaser, as trustee, for the named beneficiary, to be held, invested, and administered as a trust account for the benefit and protection of the beneficiary. The depositor shall notify the financial institution of the existence and terms of the trust, including at a minimum, the name of each party to the agreement, the name and address of the trustee, and the name and address of the beneficiary. The account may be made payable to the seller upon the beneficiary's death.

d. The payments shall be deposited in the name of the trustee, as trustee, under the terms of a master trust agreement and the trustee may invest, reinvest, exchange, retain, sell, and otherwise manage the trust fund for the benefit and protection of the named beneficiary.

3. The commissioner may by rule authorize other methods of deposit upon a finding that such methods provide equivalent safety of the principal and interest or income and the seller lacks access to the proceeds prior to performance.

4. This section does not prohibit moving trust funds from one financial institution to another.

Sec. 21. NEW SECTION. 523A.203 FINANCIAL INSTITUTION TRUSTEE QUALIFICATION AND INVESTMENT REQUIREMENTS.

1. A financial institution may serve as a trustee if granted those powers under the laws of

this state or of the United States. A financial institution acting as a trustee of trust funds under this chapter shall invest the funds in accordance with applicable law.

2. A financial institution acting as a trustee of trust funds under this chapter has a fiduciary duty to make reasonable investment decisions and to properly oversee and manage the funds entrusted to it. The trustee shall use the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. The commissioner may take enforcement action against a financial institution in its capacity as trustee for a breach of fiduciary duty proven under this chapter.

3. Moneys deposited under a master trust agreement may be commingled by the financial institution for investment purposes if each deposit includes a detailed listing of the amount deposited in trust for each beneficiary and maintenance of a separate accounting of each purchaser's principal, interest, and income.

4. Subject to a master trust agreement, the seller may appoint an independent investment adviser to advise the financial institution about investment of the trust funds.

5. Subject to agreement between the parties, the financial institution may receive a reasonable fee from the trust funds for services rendered as trustee. The trust shall pay the trust operation costs and any annual audit fees.

6. The seller or any officer, director, agent, employee, or affiliate of the seller shall not serve as trustee. A financial institution holding trust funds shall not do any of the following:

- a. Be owned, under the control of, or affiliated with a seller.
- b. Use any funds required to be held in trust under this chapter or chapter 566A to purchase an interest in any contract or agreement to which a seller is a party.
- c. Otherwise invest, directly or indirectly, in a seller's business operations.

Sec. 22. NEW SECTION. 523A.204 ESTABLISHMENT ANNUAL REPORTING REQUIREMENTS.

1. An establishment shall file with the commissioner not later than March 1 of each year an annual report on a form prescribed by the commissioner containing all of the following:

a. The seller's name and address and the name and address of the establishment that will provide the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

b. The balance of each trust account as of the end of the preceding calendar year, identified by purchaser or beneficiary name.

c. A report of any amounts withdrawn from the trust account including the reason for each withdrawal.

d. A detailed listing of the insurance funding outstanding at the end of the preceding calendar year, identified by the name of the purchaser or the beneficiary.

e. A complete inventory of the cemetery merchandise, funeral merchandise, or a combination thereof delivered in lieu of trust fund requirements under section 523A.401, including the following:

(1) The location of the merchandise.

(2) Merchandise serial numbers or warehouse receipt numbers identified by the name of the purchaser or the beneficiary.

(3) A verified statement of a certified public accountant on a form prescribed by the commissioner that all of the following have occurred:

(a) A physical inventory of the cemetery merchandise or funeral merchandise has been conducted.

(b) Each item of that merchandise is in the seller's possession at the specified location.

f. The purchaser and beneficiary names, the amount of each purchase agreement made in the preceding year, and the date the purchase agreement was made.

g. A summary of any purchase agreements converted from trust-funded benefits to insurance-funded or annuity benefits during the preceding year which shall include, as of the conversion date, the following information, as well as aggregated totals for each of the following categories of information, if appropriate:

- (1) Insured's name.
- (2) Insured's policy number.
- (3) Original prepaid purchase agreement amount.
- (4) Amount paid in.
- (5) Unpaid balance of the prepaid purchase agreement.
- (6) Unpaid balance of the purchase agreement.
- (7) Amount retained by the establishment.
- (8) Amount applied to the purchase of the insurance policy or annuity.
- (9) Initial cash surrender value and initial death benefit under the insurance policy.

The establishment shall include a notarized statement attesting that the insurance policies or annuities have been issued and funded on behalf of the purchasers listed in the summary and that all notices required under this section have been given.

h. A summary of any purchase agreements converted from trust-funded benefits to a surety bond during the preceding year which shall include, as of the conversion date, the following information, as well as aggregated totals for each of the following categories of information, if appropriate:

- (1) Name of the purchaser and beneficiary.
- (2) Original prepaid purchase agreement amount.
- (3) Amount paid in.
- (4) Unpaid balance of the prepaid purchase agreement.
- (5) Unpaid balance of the purchase agreement.
- (6) Amount retained by the establishment.
- (7) Amount applied to the purchase of the surety bond.
- (8) A description of the surety bond and the applicable amount of coverage.

i. Any other information the commissioner deems necessary for the administration of this chapter.

2. A person holding multiple establishment permits may elect to file only one annual report after noting all establishments on the report.

3. An establishment shall make a good faith effort to complete the annual report. The establishment shall note on the annual report any information not reasonably available to the establishment as an exception or variance. Account balances within twelve months of the date of the filing of the annual report shall be accepted if the actual date of the account balances is noted.

4. In lieu of the annual report form described in subsection 1, the commissioner may authorize an establishment to file a short form annual report on a form prescribed by the commissioner. The short form annual report may incorporate by reference information readily available to the establishment. The commissioner may certify and decertify establishments authorized to file the short form based upon:

- a. The establishment's recordkeeping system.
- b. The number of purchase agreements which the establishment has sold that are subject to regulation under chapter 523A.
- c. The availability and accessibility of information at the establishment for purchase agreements subject to regulation.
- d. Whether the establishment places one hundred percent of funds received pursuant to its purchase agreements in trust.
- e. The findings of the commissioner concerning audits and consumer complaints.

The commissioner shall retain the authority to require establishments permitted to file the short form annual report to provide all of the information required in the annual report form required by subsection 1 for audit purposes or otherwise.



5. An establishment filing an annual report shall pay a filing fee of ten dollars per purchase agreement sold during the year covered by the report. The fee does not apply to any of the following:

- a. A purchase agreement where the beneficiary dies in the same year the agreement was sold.
- b. Any modifications or additions, such as payments, for an existing purchase agreement sold in a previous year.
- c. An additional agreement purchased and already reported to the commissioner by the purchaser.
- d. A purchase agreement canceled or revoked in the same year it was sold.

All purchase agreement changes for which a filing fee is not required must be reported to the commissioner on the annual report for the year covered.

6. As part of the annual filing with the commissioner, an establishment shall file an authorization for the commissioner or a designee to investigate, audit, and verify all funds, accounts, safe deposit boxes, and other evidence of establishment trust funds held by or in a financial institution.

7. Forms may be obtained at cost from the commissioner upon request. The commissioner may accept annual reports submitted in an electronic format, including but not limited to computer diskettes.

8. Notwithstanding chapter 22, all records maintained by the commissioner under this section shall be confidential and shall not be made available for inspection or copying except upon approval of the commissioner or the attorney general.

**Sec. 23. NEW SECTION. 523A.205 FINANCIAL INSTITUTION ANNUAL REPORTING REQUIREMENTS.**

1. A financial institution shall file with the commissioner not later than March 1 of each year an annual report on a form prescribed by the commissioner showing all funds deposited by an establishment under a trust agreement during the previous year. Each report shall contain all information requested.

2. Forms may be obtained from the commissioner upon request. The commissioner may accept annual reports submitted in an electronic format, including but not limited to computer diskettes.

3. Notwithstanding chapter 22, all records maintained by the commissioner under this section shall be confidential and shall not be made available for inspection or copying except upon approval of the commissioner or the attorney general.

**Sec. 24. NEW SECTION. 523A.206 AUDITS.**

1. The commissioner may make audits of the establishments and of the records of a seller, at the times and in the scope the commissioner determines. The audits may be made without prior notice to the seller. The commissioner may copy all records the commissioner feels are necessary to conduct the audit. The commissioner may require an audit of a seller or other person by a certified public accountant to verify compliance with this chapter, implementing rules, or orders.

2. A seller or other person shall pay for the audit unless the commissioner waives this requirement. The cost of an audit involving multiple sellers or other persons shall be prorated among them upon any reasonable basis as determined by the commissioner. The accountant shall deliver the audit report to the commissioner and to the seller or other persons.

3. The commissioner shall not make public the information obtained in the course of an audit, except when a duty under this chapter requires the commissioner to take action against a seller or to cooperate with another enforcement or regulatory agency, or except when the commissioner is called as a witness in a civil or criminal proceeding.

SUBCHAPTER 3  
DISBURSEMENT OF REMAINING BURIAL ACCOUNT FUNDS,  
BURIAL TRUST FUNDS, AND INSURANCE OR ANNUITY PROCEEDS  
UNDER THE REQUIREMENTS OF SECTION 249A.5

Sec. 25. NEW SECTION. 523A.301 DEFINITION.

As used in sections 523A.302 and 523A.303, "director" means the director of human services.

Sec. 26. NEW SECTION. 523A.302 IDENTIFICATION OF MERCHANDISE AND SERVICE PROVIDER.

If a burial trust fund identifies, either in the trust fund records or in a related purchase agreement, the seller who will provide the cemetery merchandise, funeral merchandise, funeral services or a combination thereof, the trust fund records or the related purchase agreements must contain a statement signed by an authorized representative of the seller agreeing to furnish the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof upon the death of the beneficiary. The burial trust fund shall not identify a specific seller as payee unless the trust fund records or the related purchase agreements, if any, contain the signature of an authorized representative of the seller and, if the agreement is for funeral services as defined in chapter 156, the name of a funeral director licensed to deliver those services. A person may enter into agreements authorizing the establishment of more than one burial trust fund and agreeing to furnish the applicable merchandise and services.

Sec. 27. NEW SECTION. 523A.303 DISBURSEMENT OF REMAINING FUNDS.

1. If funds remain in a nonguaranteed irrevocable burial trust fund or from the proceeds of an insurance policy or annuity made payable or assigned to the seller or a provider after the payment of funeral and burial expenses in accordance with the conditions and terms of the purchase agreement for cemetery merchandise, funeral merchandise, or funeral services, the seller shall comply with all of the following:

a. The seller shall provide written notice by mail to the director under subsection 2.

b. At least sixty days after mailing notice to the director, the seller shall disburse any remaining funds from the burial trust fund as follows:

(1) If within the sixty-day period the seller receives a claim from the personal representative of the deceased, any remaining funds shall be disbursed to the personal representative, notwithstanding any claim by the director.

(2) If within the sixty-day period the seller has not received a claim from the personal representative of the deceased but receives a claim from the director, the seller shall disburse the remaining funds up to the amount of the claim to the director.

(3) Any remaining funds not disposed of pursuant to subparagraphs (1) and (2) shall be disbursed to any person who is identified as the next of kin of the deceased in an affidavit submitted in accordance with subsection 5.

2. The notice mailed to the director shall meet all of the following requirements and is subject to all of the following conditions:

a. The notice shall be mailed with postage prepaid.

b. If the notice is sent by regular mail, the sixty-day period for receipt of a response is deemed to commence three days following the date of mailing.

c. If the notice is sent by certified mail, the sixty-day period for receipt of a response is deemed to commence on the date of mailing.

d. The notice shall provide all of the following information:

(1) Current name, address, and telephone number of the seller.

(2) Full name of the deceased.

(3) Date of the deceased's death.

(4) Amount of funds remaining in the burial trust fund.

(5) Statement that any claim by the director must be received by the seller within sixty days after the date of mailing of the notice.

e. A notice in substantially the following form complies with this subsection:

“TO: THE DIRECTOR OF HUMAN SERVICES

FROM: (SELLER’S NAME, CURRENT ADDRESS, AND TELEPHONE NUMBER)

YOU ARE HEREBY NOTIFIED THAT (NAME OF DECEASED), WHO HAD AN IRREVOCABLE BURIAL TRUST FUND, HAS DIED, THAT FINAL PAYMENT FOR CEMETERY MERCHANDISE, FUNERAL MERCHANDISE, AND FUNERAL SERVICES HAS BEEN MADE, AND THAT (REMAINING AMOUNT) REMAINS IN THE IRREVOCABLE BURIAL TRUST FUND.

THE ABOVE-NAMED SELLER MUST RECEIVE A WRITTEN RESPONSE REGARDING ANY CLAIM BY THE DIRECTOR WITHIN SIXTY DAYS AFTER THE MAILING OF THIS NOTICE TO THE DIRECTOR.

IF THE ABOVE-NAMED SELLER DOES NOT RECEIVE A WRITTEN RESPONSE REGARDING A CLAIM BY THE DIRECTOR WITHIN SIXTY DAYS AFTER THE MAILING OF THIS NOTICE, THE SELLER MAY DISPOSE OF THE REMAINING FUNDS IN ACCORDANCE WITH SECTION 523A.303, CODE OF IOWA.”

3. Upon receipt of the seller’s written notice, the director shall determine if a debt is due the department of human services pursuant to section 249A.5. If the director determines that a debt is owing, the director shall provide a written response to the seller within sixty days after the mailing of the seller’s notice. If the director does not respond with a claim within the sixty-day period, any claim made by the director shall not be enforceable against the seller, the trust, or a trustee.

4. A personal representative who wishes to make a claim shall send written notice of the claim to the seller. If the seller does not receive any claim from a personal representative within the sixty-day period provided for response by the director regarding a claim, the claim of the personal representative shall not be enforceable against the seller, the trust, or a trustee.

5. Any person other than a personal representative or the director claiming an interest in the remaining funds shall submit an affidavit claiming an interest which provides the following information:

a. Full name, current address, and telephone number of the claimant.

b. Claimant’s relationship to the deceased.

c. Name of any surviving next of kin of the deceased, and the relationship of any named surviving next of kin.

d. That the claimant has no knowledge of the existence of a personal representative for the deceased’s estate.

6. The seller may retain not more than fifty dollars of the remaining funds in the burial trust fund for the administrative expenses associated with the requirements of this section.

7. If the funds remaining in a burial trust fund are disbursed under the requirements of this section, the seller, the provider, the burial trust fund, and any trustee shall not be liable to the director, the estate of the deceased, any personal representative, or any other interested person for the remaining funds and any lien imposed by the director shall be unenforceable against the seller, the burial trust fund, or any trustee.

#### SUBCHAPTER 4 TRUSTING ALTERNATIVES

Sec. 28. NEW SECTION. 523A.401 PURCHASE AGREEMENTS FUNDED BY INSURANCE PROCEEDS.

1. A purchase agreement may be funded by insurance proceeds derived from a new or existing insurance policy issued by an insurance company authorized to do business and doing business within this state.

2. Such funding may be in lieu of the trusting requirements of this chapter when the purchaser assigns the proceeds of an existing insurance policy.

3. Such funding may be in lieu of the trusting requirements of this chapter when a new

insurance policy is purchased to fund the purchase agreement, with a face amount equal to or greater than the current retail price of the cemetery merchandise, funeral merchandise, and funeral services to be delivered under the purchase agreement or, if less, a face amount equal to the total of all payments to be submitted by the purchaser pursuant to the purchase agreement.

4. The premiums of any new insurance policy shall be fully paid within thirty days after execution of the purchase agreement or, with respect to a purchase agreement that provides for periodic payments, the premiums shall be paid directly by the purchaser to the insurance company issuing the policy.

5. Any new insurance policy shall satisfy the following conditions:

a. Except as necessary and appropriate to satisfy the requirements regarding burial trust funds under Title XIX of the federal Social Security Act, the policy shall not be owned by the establishment, the policy shall not be irrevocably assigned to the establishment, and the assignment of proceeds from the insurance policy to the establishment shall be limited to the establishment's interests as they appear in the purchase agreement, and conditioned on the establishment's delivery of cemetery merchandise, funeral merchandise, and funeral services pursuant to a purchase agreement.

b. The policy shall provide that any assignment of benefits is contingent upon the establishment's delivery of cemetery merchandise, funeral merchandise, and funeral services pursuant to a purchase agreement.

c. The policy shall have an increasing death benefit or similar feature that provides some means for increasing the funding as the cost of funeral and cemetery goods and<sup>3</sup> services increases.

6. With the written consent of the purchaser, an existing prepaid purchase agreement with trust-funded benefits may be converted to a prepaid purchase agreement with insurance-funded benefits provided the establishment and the insurance benefits comply with the following provisions:

a. The transfer of the trust funds to the insurance company must be at least equal to the full sum required to be deposited as trust principal under the trust-funded prepaid purchase agreement plus all net earnings accumulated with respect thereto, as of the transfer date. Commissions, allowances, surrender charges or other forms of compensation or expense loads, premium expense, administrative charges or expenses, or policy fees shall not be deducted from the trust funds transferred pursuant to the conversion.

b. The face amount of any insurance policy issued on an individual must be no less than the amount of principal and interest transferred for that individual to the insurance company, and any supplemental insurance policy issued to cover the unfunded portion of the purchase agreement must have a face amount that is at least as great as the unfunded principal balance. The face amount of the insurance purchased shall not, under any circumstances, be less than the total of all payments made by the purchaser pursuant to the agreement plus all net earnings accumulated with respect thereto, as of the transfer date.

c. The insurance policy shall not allow for contesting coverage, limit death benefits in the case of suicide, refer to physical examination, or otherwise operate as an exclusion, limitation, or condition other than requiring submission of proof of death or surrender of policy at the time the prepaid purchase agreement is funded, matures, or is canceled, as the case may be.

d. The establishment shall maintain a copy of any prepaid trust-funded purchase agreement that was converted to a prepaid insurance-funded purchase agreement and retain the payment history records for each converted purchase agreement prior to conversion until the cemetery merchandise, funeral merchandise, and funeral services have been delivered.

7. The seller of a purchase agreement subject to this chapter which is to be funded by insurance proceeds shall obtain all permits required to be obtained and comply with all reporting requirements under this chapter.

8. An insurance company issuing policies funding purchase agreements subject to this

<sup>3</sup> See chapter 176, §73 herein

chapter shall file an annual report with the commissioner on a form prescribed by the commissioner. The report shall list the applicable insurance policies outstanding for each establishment. Computer printouts may be submitted so long as each legibly provides the same information required in the prescribed form.

Sec. 29. NEW SECTION. 523A.402 PURCHASE AGREEMENTS FUNDED BY ANNUITY PROCEEDS.

1. A purchase agreement may be funded by proceeds derived from a new or existing annuity issued by an insurance company authorized to do business and doing business within this state.

2. Such funding may be in lieu of the trust requirements of this chapter when the purchaser assigns the proceeds of an existing annuity.

3. Such funding may be in lieu of the trust requirements of this chapter when a new annuity is purchased to fund the purchase agreement, with a face amount equal to or greater than the current retail price of the cemetery merchandise, funeral merchandise, and funeral services to be delivered under the purchase agreement or, if less, a face amount equal to the total of all payments to be submitted by the purchaser pursuant to the purchase agreement.

4. The premiums of any new annuity shall be fully paid within thirty days after execution of the purchase agreement or, with respect to a purchase agreement that provides for periodic payments, the premiums shall be paid directly by the purchaser to the insurance company issuing the annuity.

5. The annuity shall satisfy the following conditions:

a. Except as necessary and appropriate to satisfy the requirements regarding burial trust funds under Title XIX of the federal Social Security Act, the annuity shall not be owned by the establishment or irrevocably assigned and any designation of the establishment as a beneficiary shall not be made irrevocable.

b. The annuity shall provide that any assignment of benefits is contingent upon the establishment's delivery of cemetery merchandise, funeral merchandise, and funeral services pursuant to a purchase agreement.

c. The annuity shall have an increasing death benefit or similar feature that provides some means for increasing the funding as the cost of cemetery merchandise, funeral merchandise, and funeral services increases.

6. With the written consent of the purchaser, an existing prepaid purchase agreement with trust-funded benefits may be converted to a prepaid purchase agreement with annuity-funded benefits provided the establishment and the annuity benefits comply with the following provisions:

a. The transfer of the trust funds to the insurance company must be at least equal to the full sum required to be deposited as trust principal under the trust-funded prepaid purchase agreement plus all net earnings accumulated with respect thereto, as of the transfer date. Commissions, allowances, surrender charges or other forms of compensation or expense loads, premium expense, administrative charges or expenses, or fees shall not be deducted from the trust funds transferred pursuant to the conversion.

b. The face amount of any annuity issued on an individual must be no less than the amount of principal and interest transferred for that individual to the insurance company, and any supplemental annuity issued to cover the unfunded portion of the purchase agreement must have a face amount that is at least as great as the unfunded principal balance. The face amount of the annuity purchased shall not, under any circumstances, be less than the total of all payments made by the purchaser pursuant to the agreement plus all net earnings accumulated with respect thereto, as of the transfer date.

c. The annuity shall not allow for contesting coverage, limit death benefits in the case of suicide, refer to physical examination, or otherwise operate as an exclusion, limitation, or condition other than requiring submission of proof of death or surrender of the annuity at the time the prepaid purchase agreement is funded, matures, or is canceled, as the case may be.

d. The establishment shall maintain a copy of any prepaid trust-funded purchase agreement that was converted to a prepaid annuity-funded purchase agreement and retain the payment history records for each converted purchase agreement prior to conversion until the cemetery merchandise, funeral merchandise, and funeral services have been delivered.

7. The seller of a purchase agreement subject to this chapter which is to be funded by annuity proceeds shall obtain all permits required to be obtained and comply with all reporting requirements under this chapter.

8. An insurance company issuing annuities funding purchase agreements subject to this chapter shall file an annual report with the commissioner on a form prescribed by the commissioner. The report shall list the applicable annuities outstanding for each establishment. Computer printouts may be submitted so long as each legibly provides the same information required in the prescribed form.

**Sec. 30. NEW SECTION. 523A.403 PURCHASE AGREEMENTS FUNDED BY CERTIFICATES OF DEPOSIT.**

1. A purchase agreement may be funded by proceeds derived from a certificate of deposit in the name of the purchaser made payable to the seller upon the purchaser's death.

2. The seller of a purchase agreement subject to this chapter which is to be funded by a certificate of deposit shall obtain all permits required to be obtained and comply with all reporting requirements under this chapter, implementing rules, and orders.

**Sec. 31. NEW SECTION. 523A.404 MERCHANDISE DELIVERED TO THE PURCHASER OR WAREHOUSED.**

1. Trust requirements do not apply to payments for outer burial containers made of either polystyrene or polypropylene or cemetery merchandise delivered to the purchaser or stored in an independent third-party storage facility not owned or controlled by the seller when approved by the commissioner. The seller or the storage facility must demonstrate that they will do all of the following:

- a. Issue a receipt of ownership in the name of the purchaser and deliver it to the purchaser.
- b. Insure the merchandise against loss.
- c. Protect the merchandise against damage.
- d. Transfer title to the purchaser.
- e. Appropriately identify and describe the merchandise in a manner that it can be distinguished from other similar items.
- f. Use a method of storage that allows for visual audits of the merchandise.
- g. Have adequate, computerized, recordkeeping systems in place to identify, describe, and count each item in storage, including the ownership of each item, and provide an aggregate listing with numerical totals.
- h. File a consent to be audited and inspected by the commissioner.
- i. Provide reports to the commissioner, annually, by an independent certified public accountant, which shall include a physical count of merchandise held in storage and a review of information, including the seller's revenue and sales records, as necessary to verify the adequacy of the number of items held at the storage facility.
- j. Satisfy the annual reporting requirements of section 523A.204.

2. Lawn crypts may be delivered in lieu of trusting. For this purpose, delivery means installation in a grave owned by the purchaser. The seller shall do all of the following:

- a. Notify the administrator before the lawn crypts are installed.
  - b. Identify the intended location of the lawn crypts within the cemetery.
  - c. Provide documentation adequately demonstrating delivery has occurred. Adequate documentation includes but is not limited to photographs and third-party certifications.
3. Cemetery merchandise and funeral merchandise shall not be deemed delivered to the purchaser or warehoused if the merchandise is subject to a lien or security interest by any party other than the seller.

4. An establishment is prohibited from requiring delivery as a condition of the sale.

5. A seller shall provide services necessary for the installation or burial of outer burial containers sold by the seller. This subsection shall not require the seller to provide for the opening or closing of the interment or entombment space, unless the purchase agreement provides otherwise.

Sec. 32. NEW SECTION. 523A.405 BOND IN LIEU OF TRUST FUND.

1. In lieu of trust requirements, a seller may file with the commissioner a surety bond issued by a surety company authorized to do business and doing business within this state. The bond must be conditioned upon the seller's faithful performance of purchase agreements subject to this chapter. The surety's liability extends to each such agreement executed while the bond is in force and until performance or rescision of the purchase agreement. To the extent expressly agreed to in writing by the surety, the surety's liability extends to each such agreement subject to this chapter executed prior to the time the bond was in force and until performance or rescision of the agreement. A purchaser aggrieved by a breach of a condition of the bond covering the purchaser's agreement may maintain an action against the bond. If, at the time of the breach, the purchaser is aware of the purchaser's rights under the bond and how to file a claim against the bond, the surety shall not be liable for any breach of condition unless the surety receives notice of a claim within sixty days following discovery of the acts, omissions, or conditions constituting the breach of condition, except as otherwise provided in this section. A surety bond shall not be canceled by a surety except upon a written notice of cancellation given by the surety to the commissioner by restricted certified mail, and not prior to the expiration of sixty days after receipt of the notice by the commissioner. The surety's liability shall extend to each purchase agreement subject to this chapter executed prior to cancellation of the surety bond until the seller has complied with section 3.<sup>4</sup>

2. If a seller becomes insolvent or otherwise ceases to engage in business prior to or within sixty days after cancellation of a bond, the seller shall be deemed to have breached the bond conditions for outstanding agreements under this chapter as of the day prior to cancellation of the bond. The commissioner shall mail written notice by restricted certified mail to the purchaser under each outstanding purchase agreement of the seller that a claim against the bond must be filed with the surety company within sixty days after the mailing date of the notice. The surety shall cease to be liable for all purchase agreements except those for which claims are filed with the surety company within sixty days after the date the commissioner mails the notices.

3. If a surety bond is canceled by a surety under any conditions other than those specified in subsection 2, the seller shall comply with all of the following:

a. The seller shall comply with the trust requirements of section 523A.201 for all purchase agreements subject to this chapter executed on or after the effective date of cancellation of the surety bond. In the alternative, the seller may submit a substitute surety bond meeting the requirements of subsection 1, but the seller must comply with section 523A.201 for any purchase agreements executed on or after the effective cancellation date of the earlier surety bond and prior to the effective date of the later surety bond.

b. Within sixty days after the effective cancellation date of the surety bond, the seller shall submit to the commissioner an undertaking by another surety company that a substitute surety bond meeting the requirements of subsection 1 is in effect and that the liability of the substitute surety bond extends to all outstanding purchase agreements of the seller that were executed but not performed or extinguished prior to the effective date of the substitute surety bond, or the seller shall submit to the commissioner a financial statement accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state certifying the total amount of outstanding liabilities of the seller on purchase agreements subject to this chapter and proof of deposit by the seller in trust under section 523A.201 of either the amount specified in section 523A.201, including interest as set by the commissioner based on the interest which would have been earned had the

<sup>4</sup> See chapter 176, §74 herein

funds been maintained in trust, with respect to all of those outstanding purchase agreements or, where applicable, that delivery of merchandise has been made in compliance with section 523A.404. The surety may require such security as is necessary to comply with this section. Upon compliance by the seller with this paragraph, the surety company canceling the surety bond shall cease to be liable with respect to any outstanding purchase agreements of the seller except those purchase agreements with respect to which a breach of condition occurred prior to cancellation and for which timely claims were filed.

4. Section 523A.202, and, to the extent it is applicable, section 523A.206, apply to sellers whose purchase agreements are covered by a surety bond maintained under this section, and section 523A.202 continues to apply to any purchase agreements of those sellers that are not covered by a surety bond maintained under this section.

5. Upon receiving a notice of cancellation of a surety bond, the commissioner shall notify the seller of the requirements of this chapter resulting from cancellation of the bond. The notice may be in the form of a copy of this section and sections 523A.201 and 523A.202.

6. Upon receiving a notice of cancellation, unless the seller has complied with the requirements of this section, the attorney general shall seek an injunction to prohibit the seller from making further purchase agreements subject to this chapter. The attorney general shall commence an action to attach and levy execution upon property of the seller when the seller fails to perform a purchase agreement subject to this chapter, to the extent necessary to secure compliance with this chapter. The county attorney may bring criminal charges under subchapter 7.

7. The surety under this section shall not be owned, under the control of, or affiliated with the seller.

8. The amount of the surety bond shall equal eighty percent of the payments received pursuant to purchase agreements, or the applicable portion thereof, for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof and the amount needed to adjust the amount of the surety bond for inflation as set by the commissioner based on the consumer price index. The seller shall review the amount of the surety bond no less than annually and shall increase the bond as necessary to reflect additional payments. The amount needed to adjust for inflation shall be added annually to the surety bond during the first quarter of the establishment's fiscal year.

9. With the consent of the purchaser, an existing prepaid purchase agreement with trust-funded benefits may be converted to a prepaid purchase agreement funded by a surety bond provided the establishment and the surety bond comply with the following provisions:

a. The amount of the trust funds transferred to the surety company must be at least equal to the full sum required to be deposited as trust principal under the trust-funded prepaid purchase agreement plus all net earnings accumulated with respect thereto, as of the transfer date. Commissions, allowances, surrender charges or other forms of compensation or expense loads, premium expense, administrative charges or expenses, or fees shall not be deducted from the trust funds transferred pursuant to the conversion.

b. The face amount of the surety bond issued on an individual must be no less than the amount of principal and interest transferred for that individual to the surety company, and any supplemental surety bond issued to cover the unfunded portion of the purchase agreement must have a face amount that is at least as great as the unfunded principal balance. The face amount of the surety bond purchased shall not, under the circumstances, be less than the total of all payments made by the purchaser pursuant to the agreement plus all net earnings accumulated with respect thereto, as of the transfer date.

c. The establishment shall maintain a copy of any prepaid trust-funded agreement that was converted to a prepaid purchase agreement funded by a surety bond and retain the payment history records for each converted purchase agreement prior to conversion until the cemetery merchandise, funeral merchandise, and funeral services have been delivered.



SUBCHAPTER 5  
PERMIT REQUIREMENTS FOR SELLERS OF CEMETERY  
MERCHANDISE, FUNERAL MERCHANDISE, FUNERAL SERVICES,  
OR A COMBINATION THEREOF

Sec. 33. NEW SECTION. 523A.501 ESTABLISHMENT PERMITS.

1. A person shall not advertise, sell, promote, or offer to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following the initial payment on the account without an establishment permit. Each establishment must have an establishment permit.

2. An application for an establishment permit shall be filed on a form prescribed by the commissioner, be accompanied by a fifty dollar filing fee, and include a copy of each purchase agreement the person will use for sales of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

3. The application shall contain:

- a. The name and address of the establishment.
- b. The name and address of any additional provider of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.
- c. The name and address of each owner, officer, or other official of the establishment, including when relevant the chief executive officer and the members of the board of directors.
- d. A description of any common business enterprise or parent company.
- e. The types of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof to be sold.
- f. The types of trust or trust alternatives utilized by the establishment and a list of the financial institutions, storage facilities, surety companies, and insurance companies utilized by the establishment on a regular basis.

4. A permit holder shall inform the commissioner of changes in the information required to be provided by subsection 3 within thirty days of the change.

5. An establishment permit is not assignable or transferable. A permit holder selling all or part of an establishment shall cancel the permit and the purchaser shall apply for a new permit in the purchaser's name within thirty days of the sale.

6. The commissioner shall grant or deny a permit application within thirty days after receipt, but the commissioner's failure to act within that time period shall not be deemed approval of the application. If the commissioner does not grant the permit, the commissioner shall notify the person in writing of the reasons for the denial. The permit shall disclose on its face the permit holder's employer or the establishment on whose behalf the applicant will be making or attempting to make sales, the permit number, and the expiration date.

7. An initial permit is valid for two years from the date the application is filed. A permit may be renewed for two years by filing the form prescribed by the commissioner under subsection 2, accompanied by a ten dollar renewal fee. Submission of purchase agreements is not required for renewals unless the purchase agreements have been modified since the last filing.

8. The commissioner may by rule create or accept a multijurisdiction establishment permit. If the establishment permit is issued by another jurisdiction, the rules shall require the filing of an application or notice form and payment of the applicable filing fee of fifty dollars for an initial application and ten dollars for a renewal application. The application or notice form utilized and the effective dates and terms of the permit may vary from the provisions set forth in subsections 2, 3, and 7.

Sec. 34. NEW SECTION. 523A.502 SALES PERMITS.

1. A person shall not advertise, sell, promote, or offer to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or deliv-

ery may be more than one hundred twenty days following initial payment on the account without a sales permit. A permit holder must be an employee or agent of a person holding an establishment permit who can deliver the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof being sold. A person must have a sales permit for each establishment at which the person works. However, a person may apply for a sales permit covering multiple establishments, if the establishments have common ownership. The establishment permit holder is liable for the acts of its employees and agents performed in advertising, selling, promoting, or offering to furnish, upon the future death of a person named or implied in a purchase agreement, cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

2. This chapter does not permit a person to practice mortuary science without a license. A person holding a current sales permit may advertise, sell, promote, or offer to furnish a funeral director's services as an employee or agent of a funeral establishment furnishing the funeral services under chapter 156.

3. An application for a sales permit shall be filed on a form prescribed by the commissioner and be accompanied by a five dollar filing fee.

4. The application shall contain:

a. The name and address of the person.

b. The name and address of the person's employer and each establishment on whose behalf the person will be advertising, selling, promoting, or offering to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

c. The name and address of the provider who will provide the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof if different from the person's employer.

5. An initial permit expires one year from the date the application is filed. The permit may be renewed for four years by filing the form prescribed by the commissioner under subsection 3, accompanied by a twenty dollar filing fee.

6. A permit holder shall inform the commissioner of changes in the information required to be provided by subsection 4 within thirty days of the change.

7. A sales permit is not assignable or transferable. A permit holder selling all or part of a business shall cancel the permit and the purchaser shall apply for a new permit in the purchaser's name within thirty days of the sale.

8. The commissioner shall grant or deny a permit application within thirty days after receipt, but the commissioner's failure to act within that time period shall not be deemed approval of the application. If the commissioner does not grant the permit, the commissioner shall notify the applicant in writing of the reasons for the denial.

9. The commissioner may by rule create or accept a multijurisdiction sales permit. If the sales permit is issued by another jurisdiction, the rules shall require the filing of an application or notice form and payment of the applicable filing fee of five dollars for each year. The application or notice form utilized and the effective dates and terms of the permit may vary from the provisions set forth in subsections 3 and 5.

Sec. 35. NEW SECTION. 523A.503 DENIAL, SUSPENSION, REVOCATION, AND SURRENDER OF PERMITS.

1. The commissioner may, pursuant to chapter 17A, deny any permit application or immediately suspend or revoke any permit issued under this chapter for several reasons, including but not limited to:

a. Committing a fraudulent act, engaging in a fraudulent practice, or violating any provision of this chapter or, any implementing rule or order issued under this chapter.

b. Violating any other state or federal law applicable to the conduct of the applicant's or permit holder's business.

c. Insolvency or financial condition.

d. The permit holder, for the purpose of avoiding the trust requirement for funeral services, attributes amounts paid under the purchase agreement to cemetery merchandise or funeral

merchandise that is delivered under section 523A.404 rather than to funeral services sold to the purchaser. The sale of funeral services at a lower price when the sale is made in conjunction with the sale of cemetery merchandise or funeral merchandise to be delivered under section 523A.404 than the services are regularly and customarily sold for when not sold in conjunction with cemetery merchandise or funeral merchandise is evidence that the permit holder is acting with the purpose of avoiding the trust requirement for funeral services under section 523A.201.

e. Engaging in a deceptive act or practice or deliberately misrepresenting or omitting a material fact regarding the sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof under this chapter.

f. Conviction of a criminal offense involving dishonesty or a false statement.

g. Inability to provide the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof which the applicant or permit holder purports to sell.

h. The applicant or permit holder sells the business without filing a prior notice of sale with the commissioner. The permit shall be revoked thirty days following such sale.

i. Selling by a person who is not an employee or agent of the applicant or permit holder.

2. The commissioner may, for good cause shown, suspend any permit for a period not exceeding thirty days, pending investigation.

3. Except as provided in subsection 2, a permit shall not be revoked or suspended except after notice and hearing under chapter 17A.

4. Any permit holder may surrender a permit by delivering to the commissioner written notice that the permit holder surrenders the permit, but the surrender shall not affect the permit holder's civil or criminal liability for acts committed before the surrender.

5. Denial, revocation, suspension, or surrender of a permit does not impair or affect the obligation of any preexisting lawful agreement between the permit holder and any person.

#### SUBCHAPTER 6 PURCHASE AGREEMENT REQUIREMENTS

##### Sec. 36. NEW SECTION. 523A.601 DISCLOSURES.

1. A purchase agreement for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof shall be written in clear, understandable language, and shall be printed or typed in an easy-to-read font, size, and style, and shall:

a. Identify the seller, the salesperson's permit and establishment name and permit number, the expiration date of the salesperson's permit, the purchaser, and the person for whom the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof is purchased, if other than the purchaser.

b. Specify the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, to be provided, and the cost of each merchandise item or service.

c. State clearly the conditions upon which substitution will be allowed.

d. State the total purchase price and the terms under which it is to be paid.

e. State clearly whether the purchase agreement is a guaranteed price agreement or a nonguaranteed price agreement. A nonguaranteed price agreement shall contain in twelve point bold-faced type an explanation of the consequences of such agreement in substantially the following language:

**THE PRICES OF MERCHANDISE AND SERVICES UNDER THIS AGREEMENT ARE SUBJECT TO CHANGE IN THE FUTURE. ANY FUNDS PAID UNDER THIS AGREEMENT ARE ONLY A DEPOSIT TO BE APPLIED, TOGETHER WITH ACCRUED INCOME, TOWARD THE FINAL COSTS OF THE MERCHANDISE OR SERVICES AGREED UPON. ADDITIONAL CHARGES MAY BE INCURRED WHEN ADDITIONAL MERCHANDISE OR SERVICES OR BOTH ARE PROVIDED OR WHEN PRICES HAVE INCREASED MORE THAN ACCRUED INCOME.**

f. State that the purchase of the cemetery merchandise, funeral merchandise, and funeral services is revocable and specify the damages for cancellation, if any.

g. State clearly who has the authority to cancel, amend, or revoke the purchase agreement to purchase cemetery merchandise, funeral merchandise, and funeral services.

h. State clearly that the purchaser is entitled to rescind the purchase agreement under terms and conditions specified by section 523A.602.

i. Include an explanation of regulatory oversight by the insurance division in twelve point bold-faced type, in substantially the following language:

THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION AT ( \_\_\_\_ ) \_\_\_\_\_. WRITTEN INQUIRIES OR COMPLAINTS SHOULD BE MAILED TO THE IOWA SECURITIES BUREAU, (STREET ADDRESS), (CITY), IOWA (ZIP CODE).

2. A purchase agreement that is funded by a trust shall also:

a. State the percentage of money to be placed in trust.

b. Explain the disposition of the income generated from investments and include a statement of the purchaser's responsibility for income taxes owed on the income if applicable.

c. State that if, after all payments are made under the conditions and terms of the purchase agreement for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, any funds remain in the nonguaranteed irrevocable burial trust fund, the seller shall disburse the remaining funds according to law.

d. State clearly the terms of the funeral and burial trust agreement and whether it is revocable or irrevocable.

e. State clearly that the purchaser is entitled to transfer the trust funding, insurance funding, or other trust assets or select another establishment to receive the trust funding, insurance funding, or any other trust assets.

f. State clearly who has the authority to amend or revoke the trust agreement, if revocable, and who has the authority to appoint successor trustees if the purchase agreement is canceled.

3. The commissioner may adopt rules establishing disclosure and format requirements to promote consumer understanding of the merchandise and services purchased and the available funding mechanisms for a purchase agreement under this chapter.

4. A purchase agreement shall be signed by the purchaser, the seller, and if the agreement is for funeral services as defined in chapter 156, a person licensed to deliver funeral services.

5. The seller shall disclose the following information prior to accepting the initial payment under a purchase agreement:

a. The specific method or methods (trust deposits, certificates of deposit, life insurance or an annuity, a surety bond, or warehousing) that will be used to fund the purchase agreement.

b. The relationship between the soliciting agent or agents, the provider of the cemetery merchandise, funeral merchandise, or funeral services, or combination thereof, the commissioner, and any other person.

c. The relationship of the life insurance policy or other trust assets to the funding of the purchase agreement and the nature and existence of any guarantees regarding the purchase agreement.

d. The impact on the purchase agreement of the following:

(1) Changes in the funding, including but not limited to changes in the assignment, beneficiary designation, trustee, or use of proceeds.

(2) Any penalties to be incurred by the purchaser as a result of the failure to make any additional payments required.

(3) Penalties to be incurred upon cancellation.

e. A list of cemetery merchandise, funeral merchandise, and funeral services which are agreed upon under the purchase agreement and all relevant information concerning the price of the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, including a statement that the purchase price is either guaranteed at the time of purchase or to be determined at the time of need.

f. All relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the funding and the amount actually needed to fund the purchase agreement.

g. Any penalties or restrictions including but not limited to geographic restrictions or the inability of the provider to perform, upon delivery of cemetery merchandise, funeral merchandise, or funeral services, or the purchase agreement guarantee.

h. If the funding is being transferred from another establishment, any material facts related to the revocation of the prior purchase agreement and the transfer of the existing trust funds.

**Sec. 37. NEW SECTION. 523A.602 CONSUMER RECISION, CANCELLATION, AND REFUND RIGHTS, AND PURCHASE AGREEMENT COMPLIANCE WITH OTHER LAWS.**

1. A seller shall furnish the purchaser with a completed copy of a purchase agreement pertaining to the sale at the time the purchase agreement is signed. The seller shall comply with the following terms:

a. The same language shall be used in both the oral sales representation and the written purchase agreement.

b. The seller shall give notice in the purchase agreement of the purchaser's right to rescind after signing the purchase agreement. The recision period must be<sup>5</sup> but may be greater than three business days after the date of the purchase agreement. The notice must:

(1) Be located close to the signature line.

(2) Be printed in twelve point bold-faced type.

(3) State that "YOU, THE PURCHASER, HAVE THE RIGHT TO RESCIND THIS AGREEMENT AT ANY TIME PRIOR TO MIDNIGHT OF THE (INSERT RELEVANT NUMBER, NOT LESS THAN THREE) BUSINESS DAYS AFTER THE DATE OF THIS AGREEMENT."

c. All moneys shall be refunded without penalty within ten days after recision.

**2. CANCELLATION REFUND.**

a. A purchase agreement must include a statement that the purchaser has the right to cancel the agreement for the purchase of cemetery merchandise, funeral merchandise, and funeral services upon written demand and designate or appoint a trustee to hold, manage, invest, and distribute the trust assets.

b. If a purchase agreement is canceled, a purchaser requests a transfer of the trust assets upon cancellation of a purchase agreement, or another establishment provides merchandise or services designated in a purchase agreement, the seller shall refund or transfer within thirty days of receiving a written demand no less than the purchase price of the applicable cemetery merchandise, funeral merchandise, and funeral services adjusted for inflation, using the consumer price index amounts announced by the commissioner annually, less any cancellation penalty set forth in the purchase agreement. The amount of the cancellation penalty shall not exceed ten percent of the purchase price of the applicable cemetery merchandise, funeral merchandise, and funeral services. The seller may also deduct the value of the cemetery merchandise, funeral merchandise, and funeral services already received by, delivered to, or warehoused for the purchaser.

c. A purchase agreement must include a statement that the purchaser is entitled to a refund of the purchase price of the applicable funeral merchandise adjusted for inflation, using the consumer price index amounts announced by the commissioner annually for any item of funeral merchandise that cannot be delivered to the location specified in the purchase agreement within forty-eight hours of notice of the individual's death, unless the delay is caused by weather conditions or a natural disaster. The seller must return such refund to the purchaser within thirty days of receiving the written demand.

3. This section does not prohibit a purchaser who is or may become eligible for benefits under Title XIX of the federal Social Security Act from making a guaranteed price purchase agreement irrevocable to the extent that federal law or regulations require that such an agreement be irrevocable for purposes of a purchaser's eligibility for benefits under Title XIX of the federal Social Security Act, as permitted under federal law. The seller of credit

<sup>5</sup> According to enrolled Act

sale agreements shall comply with the requirements of chapter 537, the Iowa consumer credit code, and is subject to the remedies and penalties provided in that chapter for noncompliance.

#### SUBCHAPTER 7 FRAUDULENT PRACTICES

Sec. 38. NEW SECTION. 523A.701 MISLEADING FILINGS.

It is unlawful for a person to make or cause to be made, in any document filed with the commissioner, or in any proceeding under this chapter, any statement of material fact which is, at the time and in the light of the circumstances under which it is made, false or misleading, or, in connection with such statement, to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

Sec. 39. NEW SECTION. 523A.702 MISREPRESENTATIONS OF GOVERNMENT APPROVAL.

It is unlawful for a seller under this chapter to represent or imply in any manner that the seller has been sponsored, recommended, or approved, or that the seller's abilities or qualifications have in any respect been passed upon by the commissioner.

Sec. 40. NEW SECTION. 523A.703 FRAUDULENT PRACTICES.

A person who commits any of the following acts commits a fraudulent practice and is punishable as provided in chapter 714:

1. Knowingly fails to comply with any requirement of this chapter.
2. Knowingly makes, causes to be made, or subscribes to a false statement or representation in a report or other document required under this chapter, implementing rules, or orders, or renders such a report or document misleading through the deliberate omission of information properly belonging in the report or document.
3. Conspires to defraud in connection with the sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof under this chapter.
4. Fails to deposit funds under sections 523A.201 and 523A.202 or withdraws any funds in a manner inconsistent with this chapter.
5. Knowingly sells or offers cemetery merchandise, funeral merchandise, funeral services, or a combination thereof without an establishment permit.
6. Deliberately misrepresents or omits a material fact relative to the sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof under this chapter. When selling cemetery merchandise or funeral merchandise, a seller shall not exclude the funeral services necessary for the delivery, use, or installation of the cemetery merchandise or funeral merchandise at the time of the funeral or burial unless the purchase agreement expressly provides otherwise.

#### SUBCHAPTER 8 ADMINISTRATION AND ENFORCEMENT

Sec. 41. NEW SECTION. 523A.801 ADMINISTRATION.

1. This chapter shall be administered by the commissioner. The deputy administrator appointed pursuant to section 502.601 shall be the principal operations officer responsible to the commissioner for the routine administration of this chapter and management of the administrative staff. In the absence of the commissioner, whether because of vacancy in the office due to absence, physical disability, or other cause, the deputy administrator shall, for the time being, have and exercise the authority conferred upon the commissioner. The commissioner may by order from time to time delegate to the deputy administrator any or all of the functions assigned to the commissioner in this chapter. The deputy administrator shall employ officers, attorneys, accountants, and other employees as needed for administering this chapter.

2. It is unlawful for the commissioner or any administrative staff to use for personal benefit any information which is filed with or obtained by the commissioner and which is not made public. This chapter does not authorize the commissioner or any such staff member to disclose any such information except among themselves or to other cemetery and funeral administrators, regulatory authorities, or governmental agencies, or when necessary and appropriate in a proceeding or investigation under this chapter or as required by chapter 22. This chapter neither creates nor derogates any privileges that exist at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the commissioner or any administrative staff.

Sec. 42. NEW SECTION. 523A.802 SCOPE.

1. This chapter applies to any advertisement, sale, promotion, or offer made by a person to furnish, upon the future death of a person named or implied in a purchase agreement, cemetery merchandise, funeral merchandise, funeral services, or a combination thereof. Burial accounts and insurance policies are included if the account records or related documents identify the establishment that will provide the cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

2. This chapter applies when a purchase agreement is executed within this state or an advertisement, promotion, or offer to furnish is made or accepted within this state. An offer to furnish is made within this state, whether or not either party is then present in this state, when the offer originates from this state or is directed by the offeror to this state and received by the offeree in this state through the mail, over the telephone, by the internet, or through any other means of commerce.

3. If a foreign person does not have a registered agent or agents in the state of Iowa, doing business within this state shall constitute the person's appointment of the secretary of state of the state of Iowa to be its true and lawful attorney upon whom may be served all lawful process of original notice in actions or proceedings arising or growing out of any contract or tort.

Sec. 43. NEW SECTION. 523A.803 INVESTIGATIONS AND SUBPOENAS.

1. The commissioner may, for the purpose of discovering violations of this chapter, implementing rules, or orders issued under this chapter:

a. Make such public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate this chapter, implementing rules, or orders issued under this chapter, or to aid in enforcement of this chapter or in the prescribing of rules and forms under this chapter.

b. Require or permit any person to file a statement in writing, under oath or otherwise as the commissioner or attorney general determines, as to all the facts and circumstances concerning the matter to be investigated.

c. Notwithstanding chapter 22, keep confidential the information obtained in the course of an investigation. However, if the commissioner determines that it is necessary or appropriate in the public interest or for the protection of the public, the commissioner may share information with other administrators, regulatory authorities, or governmental agencies, or may publish information concerning a violation of this chapter, implementing rules, or orders issued under this chapter.

d. Investigate the establishment and examine the books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records used by every applicant and permit holder under this chapter.

e. Administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records which the commissioner deems relevant or material to any investigation or proceeding under this chapter and implementing rules, all of which may be enforced under chapter 17A.

f. Apply to the district court for an order requiring a person's appearance before the com-

missioner or attorney general, or a designee of either or both, in cases where the person has refused to obey a subpoena issued by the commissioner or attorney general. The person may also be required to produce documentary evidence germane to the subject of the investigation. Failure to obey a court order under this subsection constitutes contempt of court.

2. The commissioner may issue and bring an action in district court to enforce subpoenas within this state at the request of an agency or administrator of another state, if the activity constituting an alleged violation for which the information is sought would be a violation of this chapter had the activity occurred in this state.

Sec. 44. NEW SECTION. 523A.804 MEDIATION.

The commissioner may order an establishment to participate in mediation in any dispute regarding a purchase agreement. Mediation performed under this section shall be conducted by a mediator appointed by the commissioner and shall comply with the provisions of chapter 679C.

Mediation of these disputes shall include attendance at a mediation session with the mediator and the parties to the dispute, listening to the mediator's explanation of the mediation process, presentation of one party's view of the dispute, and listening to the response of the other party. Participation in mediation does not require that the parties reach a mediation agreement.

Parties to the mediation shall have the right to advice and presence of counsel at all times. The parties to the mediation shall present any mediation agreement reached through the mediation to the commissioner. If a mediation agreement is not reached, the mediator shall file a report with the commissioner. The costs of the mediation shall be approved by the commissioner and shall be borne by the insurance division's regulatory fund.

Sec. 45. NEW SECTION. 523A.805 CEASE AND DESIST ORDERS — INJUNCTIONS.

If it appears to the commissioner that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter, implementing rules, or orders issued under this chapter, the commissioner or the attorney general may do either or both of the following:

1. Issue a summary order directed at the person requiring the person to cease and desist from engaging in such act or practice. A person may request a hearing within thirty days of issuance of the summary order. If a hearing is not timely requested, the summary order shall become final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer following a request for hearing. Section 17A.18A is inapplicable to summary cease and desist orders issued under this section.

2. Bring an action in the district court in any county of the state for an injunction to restrain a person subject to this chapter and any agents, employees, or associates of the person from engaging in conduct or practices deemed contrary to the public interest. In any proceeding for an injunction, the commissioner or attorney general may apply to the court for a subpoena to require the appearance of a defendant and the defendant's agents and for any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records germane to the hearing upon the petition for an injunction. Upon a proper showing, a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver may be appointed for the defendant or the defendant's assets. The commissioner or attorney general shall not be required to post a bond.

Sec. 46. NEW SECTION. 523A.806 COURT ACTION FOR FAILURE TO COOPERATE.

If a person fails or refuses to file any statement or report or to produce any books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records, or to obey any subpoena issued by the commissioner, the commissioner may refer the matter to the attorney general, who may apply to a district court to enforce compliance.



The court may order any or all of the following:

1. Injunctive relief, restricting or prohibiting the offer or sale of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.
  2. Revocation or suspension of any permit issued under this chapter.
  3. Production of documents or records including but not limited to books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records.
  4. Such other relief as may be required.
- Such an order shall be effective until the person files the statement or report or produces the documents requested, or obeys the subpoena.

Sec. 47. NEW SECTION. 523A.807 PROSECUTION FOR VIOLATIONS OF LAW.

1. A violation of this chapter or rules adopted or orders issued under this chapter is a violation of section 714.16, subsection 2, paragraph "a". The remedies and penalties provided by section 714.16, including but not limited to injunctive relief and penalties, apply to violations of this chapter.

2. If the commissioner believes that grounds exist for the criminal prosecution of persons subject to this chapter for violations of this chapter or any other law of this state, the commissioner may forward to the attorney general or the county attorney the grounds for the belief, including all evidence in the commissioner's possession, so that the attorney general or the county attorney may proceed with the matter as deemed appropriate.

Sec. 48. NEW SECTION. 523A.808 COOPERATION WITH OTHER AGENCIES.

1. To encourage uniform interpretation and administration of this chapter and effective regulation of the sale of cemetery merchandise, funeral merchandise, and funeral services, the commissioner may cooperate with any governmental law enforcement or regulatory agency.

2. This cooperation includes but is not limited to:
- a. Making a joint examination or investigation.
  - b. Holding a joint administrative hearing.
  - c. Filing and prosecuting a joint civil or administrative proceeding.
  - d. Sharing and exchanging personnel.
  - e. Sharing and exchanging relevant information and documents.
  - f. Formulating, in accordance with chapter 17A, rules or proposed rules on matters such as statements of policy, regulatory standards, guidelines, and interpretive opinions.

Sec. 49. NEW SECTION. 523A.809 RULES, FORMS, AND ORDERS.

1. Under chapter 17A, the commissioner may from time to time make, amend, and rescind such rules, forms, and orders as are necessary or appropriate for the protection of purchasers and the public and to administer the provisions of this chapter, its implementing rules, and orders issued under this chapter.

2. A rule, form, or order shall not be made, amended, or rescinded unless the commissioner finds that the action is necessary or appropriate in the public interest or for the protection of purchasers and consistent with the purposes fairly intended by the policies and provisions of this chapter, its implementing rules, and orders issued under this chapter.

3. A provision of this chapter imposing any liability does not apply to any act done or omitted in good faith in conformity with any rules, form, or order of the commissioner, notwithstanding that the rule, form, or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

Sec. 50. NEW SECTION. 523A.810 DATE OF FILING AND INTERPRETIVE OPINIONS.

1. A document is filed when it is received by the commissioner.
2. Requests for interpretive opinions may be granted in the commissioner's discretion.

Sec. 51. NEW SECTION. 523A.811 RECEIVERSHIPS.

1. The commissioner shall notify the attorney general of the potential need for establishment of a receivership if the commissioner finds that a seller subject to this chapter meets one or more of the following conditions:

- a. Is insolvent.
- b. Has utilized trust funds for personal or business purposes in a manner inconsistent with this chapter.
- c. The amount of funds currently held in trust for cemetery merchandise, funeral merchandise, and funeral services is less than eighty percent of all payments made under the purchase agreements referred to in section 523A.201.
- d. Has refused to pay any just claim or demand based on a purchase agreement referred to in section 523A.201.
- e. The commissioner finds upon investigation that a seller is unable to pay any claim or demand based on a purchase agreement which has been legally determined to be just and outstanding.

2. The commissioner or attorney general may apply to the district court in any county of the state for the establishment of a receivership. Upon proof of any of the grounds for a receivership described in this section, the court may grant a receivership.

Sec. 52. NEW SECTION. 523A.812 INSURANCE DIVISION'S REGULATORY FUND.

The insurance division may authorize the creation of a special revenue fund in the state treasury, to be known as the insurance division regulatory fund. The commissioner shall allocate annually from the fees paid pursuant to section 523A.204, two dollars for each purchase agreement reported on an establishment permit holder's annual report for deposit to the regulatory fund. The remainder of the fees collected pursuant to section 523A.204 shall be deposited into the general fund of the state. The moneys in the regulatory fund shall be retained in the fund. The moneys are appropriated and, subject to authorization by the commissioner, may be used to pay auditors, audit expenses, investigative expenses, the expenses of mediation ordered by the commissioner, consumer education expenses, the expenses of a toll-free telephone line to receive consumer complaints, and the expenses of receiverships established under section 523A.811. An annual allocation to the regulatory fund shall not be imposed if the current balance of the fund exceeds two hundred thousand dollars.

Sec. 53. NEW SECTION. 523A.813 LICENSE REVOCATION — RECOMMENDATION BY COMMISSIONER TO BOARD OF MORTUARY SCIENCE EXAMINERS.

Upon a determination by the commissioner that grounds exist for an administrative license revocation or suspension action by the board of mortuary science examiners under chapter 156, the commissioner may forward to the board the grounds for the determination, including all evidence in the possession of the commissioner, so that the board may proceed with the matter as deemed appropriate.

#### SUBCHAPTER 9 LIQUIDATION PROCEDURES

Sec. 54. NEW SECTION. 523A.901 LIQUIDATION.

1. GROUND FOR LIQUIDATION. The commissioner may petition the district court for an order directing the commissioner to liquidate an establishment on either of the following grounds:

- a. The establishment did not deposit funds pursuant to section 523A.201 or withdrew funds in a manner inconsistent with this chapter and is insolvent.
- b. The establishment did not deposit funds pursuant to section 523A.201 or withdrew funds in a manner inconsistent with this chapter and the condition of the establishment is such that further transaction of business would be hazardous, financially or otherwise, to purchasers or the public.

## 2. LIQUIDATION ORDER.

a. An order to liquidate the business of an establishment shall appoint the commissioner as liquidator and shall direct the liquidator to immediately take possession of the assets of the establishment and to administer them under the general supervision of the court. The liquidator is vested with the title to the property, contracts, and rights of action and the books and records of the establishment ordered liquidated, wherever located, as of the entry of the final order of liquidation. The filing or recording of the order with the clerk of court and the recorder of deeds of the county in which its principal office or place of business is located, or, in the case of real estate with the recorder of deeds of the county where the property is located, is notice as a deed, bill of sale, or other evidence of title duly filed or recorded with the recorder of deeds.

b. Upon issuance of an order, the rights and liabilities of an establishment and of the establishment's creditors, purchasers, owners, and other persons interested in the establishment's estate shall become fixed as of the date of the entry of the order of liquidation, except as provided in subsection 14.

c. At the time of petitioning for an order of liquidation, or at any time after the time of petitioning, the commissioner, after making appropriate findings of an establishment's insolvency, may petition the court for a declaration of insolvency. After providing notice and hearing as it deems proper, the court may make the declaration.

d. An order issued under this section shall require accounting to the court by the liquidator. Accountings, at a minimum, must include all funds received or disbursed by the liquidator during the current period. An accounting shall be filed within one year of the liquidation order and at such other times as the court may require.

e. Within five days after the initiation of an appeal of an order of liquidation, which order has not been stayed, the commissioner shall present for the court's approval a plan for the continued performance of the establishment's obligations during the pendency of an appeal. The plan shall provide for the continued performance of purchase agreements in the normal course of events, notwithstanding the grounds alleged in support of the order of liquidation including the ground of insolvency. If the defendant establishment's financial condition, in the judgment of the commissioner, will not support the full performance of all obligations during the appeal pendency period, the plan may prefer the claims of certain purchasers and claimants over creditors and interested parties as well as other purchasers and claimants, as the commissioner finds to be fair and equitable considering the relative circumstances of such purchasers and claimants. The court shall examine the plan submitted by the commissioner and if it finds the plan to be in the best interests of the parties, the court shall approve the plan. An action shall not lie against the commissioner or any of the commissioner's deputies, agents, clerks, assistants, or attorneys by any party based on preference in an appeal pendency plan approved by the court.

## 3. POWERS OF LIQUIDATOR.

a. The liquidator may do any of the following:

(1) Appoint a special deputy to act for the liquidator under this chapter, and determine the special deputy's reasonable compensation. The special deputy shall have all the powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator.

(2) Hire employees and agents, legal counsel, accountants, appraisers, consultants, and other personnel as the commissioner may deem necessary to assist in the liquidation.

(3) With the approval of the court, fix reasonable compensation of employees and agents, legal counsel, accountants, appraisers, and consultants.

(4) Pay reasonable compensation to persons appointed and defray from the funds or assets of the establishment all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the establishment. If the property of the establishment does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out

of the insurance division regulatory fund. Amounts so advanced for expenses of administration shall be repaid to the insurance division regulatory fund for the use of the division out of the first available moneys of the establishment.

(5) Hold hearings, subpoena witnesses, and compel their attendance, administer oaths, examine a person under oath, and compel a person to subscribe to the person's testimony after it has been correctly reduced to writing, and in connection to the proceedings require the production of books, accounts, papers, correspondence, memoranda, purchase agreements, files, or other documents or records which the liquidator deems relevant to the inquiry.

(6) Collect debts and moneys due and claims belonging to the establishment, wherever located. Pursuant to this subparagraph, the liquidator may do any of the following:

(a) Institute timely action in other jurisdictions to forestall garnishment and attachment proceedings against debts.

(b) Perform acts as are necessary or expedient to collect, conserve, or protect its assets or property, including the power to sell, compound, compromise, or assign debts for purposes of collection upon terms and conditions as the liquidator deems best.

(c) Pursue any creditor's remedies available to enforce claims.

(7) Conduct public and private sales of the property of the establishment.

(8) Use assets of the establishment under a liquidation order to transfer obligations of purchase agreements to a solvent establishment, if the transfer can be accomplished without prejudice to the applicable priorities under subsection 18.

(9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with property of the establishment at its market value or upon terms and conditions as are fair and reasonable. The liquidator shall also have power to execute, acknowledge, and deliver deeds, assignments, releases, and other instruments necessary to effectuate a sale of property or other transaction in connection with the liquidation.

(10) Borrow money on the security of the establishment's assets or without security and execute and deliver documents necessary to that transaction for the purpose of facilitating the liquidation. Money borrowed pursuant to this subparagraph shall be repaid as an administrative expense and shall have priority over any other class 1 claims under the priority of distribution established in subsection 18.

(11) Enter into contracts as necessary to carry out the order to liquidate and affirm or disavow contracts to which the establishment is a party.

(12) Continue to prosecute and to institute in the name of the establishment or in the liquidator's own name any and all suits and other legal proceedings, in this state or elsewhere, and to abandon the prosecution of claims the liquidator deems unprofitable to pursue further.

(13) Prosecute an action on behalf of the creditors, purchasers, or owners against an officer of the establishment or any other person.

(14) Remove records and property of the establishment to the offices of the commissioner or to other places as may be convenient for the purposes of efficient and orderly execution of the liquidation.

(15) Deposit in one or more banks in this state sums as are required for meeting current administration expenses and distributions.

(16) Unless the court orders otherwise, invest funds not currently needed.

(17) File necessary documents for recording in the office of the recorder of deeds or record office in this state or elsewhere where property of the establishment is located.

(18) Assert defenses available to the establishment against third persons including statutes of limitations, statutes of fraud, and the defense of usury. A waiver of a defense by the establishment after a petition in liquidation has been filed shall not bind the liquidator.

(19) Exercise and enforce the rights, remedies, and powers of a creditor, purchaser, or owner, including the power to avoid transfer or lien that may be given by the general law and that is not included within subsections 7 through 9.

(20) Intervene in a proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

(21) Exercise powers now held or later conferred upon receivers by the laws of this state which are not inconsistent with this chapter.

b. This subsection does not limit the liquidator or exclude the liquidator from exercising a power not listed in paragraph "a" that may be necessary or appropriate to accomplish the purposes of this chapter.

#### 4. NOTICE TO CREDITORS AND OTHERS.

a. Unless the court otherwise directs, the liquidator shall give notice of the liquidation order as soon as possible by doing both of the following:

(1) Mailing notice, by first-class mail, to all persons known or reasonably expected to have claims against the establishment, including purchasers, at their last known address as indicated by the records of the establishment.

(2) Publication of notice in a newspaper of general circulation in the county in which the establishment has its principal place of business and in other locations as the liquidator deems appropriate.

b. Notice to potential claimants under paragraph "a" shall require claimants to file with the liquidator their claims together with proper proofs of the claim under subsection 13 on or before a date the liquidator shall specify in the notice. Claimants shall keep the liquidator informed of their changes of address, if any.

c. If notice is given pursuant to this subsection, the distribution of assets of the establishment under this chapter shall be conclusive with respect to claimants, whether or not a claimant actually received notice.

#### 5. ACTIONS BY AND AGAINST LIQUIDATOR.

a. After issuance of an order appointing a liquidator of an establishment, an action at law or equity shall not be brought against the establishment within this state or elsewhere, and existing actions shall not be maintained or further presented after issuance of the order. Whenever in the liquidator's judgment, protection of the estate of the establishment necessitates intervention in an action against the establishment that is pending outside this state, the liquidator may intervene in the action. The liquidator may defend, at the expense of the estate of the establishment, an action in which the liquidator intervenes under this section.

b. Within two years or such additional time as applicable law may permit, the liquidator, after the issuance of an order for liquidation, may institute an action or proceeding on behalf of the estate of the establishment upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the petition upon which the order is entered. If a period of limitation is fixed by agreement for instituting a suit or proceeding upon a claim, or for filing a claim, proof of claim, proof of loss, demand, notice, or the like, or if in a proceeding, judicial or otherwise, a period of limitation is fixed in the proceeding or pursuant to applicable law for taking an action, filing a claim or pleading, or doing an act, and if the period has not expired at the date of the filing of the petition, the liquidator may, for the benefit of the estate, take any action or do any act, required of or permitted to the establishment, within a period of one hundred eighty days subsequent to the entry of an order for liquidation, or within a further period as is shown to the satisfaction of the court not to be unfairly prejudicial to the other party.

c. A statute of limitations or defense of laches shall not run with respect to an action against an establishment between the filing of a petition for liquidation against the establishment and the denial of the petition. An action against the establishment that might have been commenced when the petition was filed may be commenced for at least sixty days after the petition is denied.

#### 6. COLLECTION AND LIST OF ASSETS.

a. As soon as practicable after the liquidation order but not later than one hundred twenty days after such order, the liquidator shall prepare in duplicate a list of the establishment's assets. The list shall be amended or supplemented as the liquidator may determine. One

copy shall be filed in the office of the clerk of court, and one copy shall be retained for the liquidator's files. Amendments and supplements shall be similarly filed.

b. The liquidator shall reduce the assets to a degree of liquidity that is consistent with the effective execution of the liquidation.

c. A submission of a proposal to the court for distribution of assets in accordance with subsection 11 fulfills the requirements of paragraph "a".

#### 7. FRAUDULENT TRANSFERS PRIOR TO PETITION.

a. A transfer made and an obligation incurred by an establishment within one year prior to the filing of a successful petition for liquidation under this chapter is fraudulent as to then existing and future creditors if made or incurred without fair consideration, or with actual intent to hinder, delay, or defraud either existing or future creditors. A fraudulent transfer made or an obligation incurred by an establishment ordered to be liquidated under this chapter may be avoided by the liquidator, except as to a person who in good faith is a purchaser, lienor, or obligee for a present fair equivalent value. A purchaser, lienor, or obligee, who in good faith has given a consideration less than present fair equivalent value for such transfer, lien, or obligation, may retain the property, lien, or obligation as security for repayment. The court may, on due notice, order any such transfer, lien, or obligation to be preserved for the benefit of the estate, and in that event, the receiver shall succeed to and may enforce the rights of the purchaser, lienor, or obligee.

b. (1) A transfer of property other than real property is made when it becomes perfected so that a subsequent lien obtainable by legal or equitable proceedings on a simple contract could not become superior to the rights of the transferee under subsection 9, paragraph "c".

(2) A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the establishment could not obtain rights superior to the rights of the transferee.

(3) A transfer which creates an equitable lien is not perfected if there are available means by which a legal lien could be perfected.

(4) A transfer not perfected prior to the filing of a petition for liquidation is deemed to be made immediately before the filing of the successful petition.

(5) This subsection applies whether or not there are or were creditors who might have obtained a lien or persons who might have become bona fide purchasers.

#### 8. FRAUDULENT TRANSFER AFTER PETITION.

a. After a petition for liquidation has been filed, a transfer of real property of the establishment made to a person acting in good faith is valid against the liquidator if made for a present fair equivalent value. If the transfer is not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred. The commencement of a proceeding in liquidation is constructive notice upon the recording of a copy of the petition for or order of liquidation with the recording or deeds<sup>6</sup> in the county where any real property in question is located. The exercise by a court of the United States or a state or jurisdiction to authorize a judicial sale of real property of the establishment within a county in a state shall not be impaired by the pendency of a proceeding unless the copy is recorded in the county prior to the consummation of the judicial sale.

b. After a petition for liquidation has been filed and before either the liquidator takes possession of the property of the establishment or an order of liquidation is granted:

(1) A transfer of the property, other than real property, of the establishment made to a person acting in good faith is valid against the liquidator if made for a present fair equivalent value. If the transfer was not made for a present fair equivalent value, then the transfer is valid to the extent of the present consideration actually paid for which amount the transferee shall have a lien on the property transferred.

(2) If acting in good faith, a person indebted to the establishment or holding property of the establishment may pay the debt or deliver the property, or any part of the property, to the establishment or upon the establishment's order as if the petition were not pending.

<sup>6</sup> The phrase "recorder of deeds" probably intended

(3) A person having actual knowledge of the pending liquidation is not acting in good faith.

(4) A person asserting the validity of a transfer under this subsection has the burden of proof. Except as provided in this subsection, a transfer by or on behalf of the establishment after the date of the petition for liquidation by any person other than the liquidator is not valid against the liquidator.

c. A person receiving any property from the establishment or any benefit of the property of the establishment which is a fraudulent transfer under paragraph "a" is personally liable for the property or benefit and shall account to the liquidator.

d. This chapter does not impair the negotiability of currency or negotiable instruments.

#### 9. VOIDABLE PREFERENCES AND LIENS.

a. (1) A preference is a transfer of the property of an establishment to or for the benefit of a creditor for an antecedent debt made or suffered by the establishment within one year before the filing of a successful petition for liquidation under this chapter, the effect of which transfer may be to enable the creditor to obtain a greater percentage of this debt than another creditor of the same class would receive. If a liquidation order is entered while the establishment is already subject to a receivership, then the transfers are preferences if made or suffered within one year before the filing of the successful petition for the receivership, or within two years before the filing of the successful petition for liquidation, whichever time is shorter.

(2) A preference may be avoided by the liquidator if any of the following exist:

(a) The establishment was insolvent at the time of the transfer.

(b) The transfer was made within four months before the filing of the petition.

(c) At the time the transfer was made, the creditor receiving it or to be benefited by the transfer or the creditor's agent acting with reference to the transfer had reasonable cause to believe that the establishment was insolvent or was about to become insolvent.

(d) The creditor receiving the transfer was an officer, or an employee, attorney, or other person who was in fact in a position of comparable influence in the establishment to an officer whether or not the person held the position of an officer, owner, or other person, firm, corporation, association, or aggregation of persons with whom the establishment did not deal at arm's length.

(3) Where the preference is voidable, the liquidator may recover the property. If the property has been converted, the liquidator may recover its value from a person who has received or converted the property. However, if a bona fide purchaser or lienor has given less than the present fair equivalent value, the purchaser or lienor shall have a lien upon the property to the extent of the consideration actually given. Where a preference by way of lien or security interest is voidable, the court may on due notice order the lien or security interest to be preserved for the benefit of the estate, in which event the lien or title shall pass to the liquidator.

b. (1) A transfer of property other than real property is made when it becomes perfected so that a subsequent lien obtainable by legal or equitable proceedings on a simple contract could not become superior to the rights of the transferee.

(2) A transfer of real property is made when it becomes perfected so that a subsequent bona fide purchaser from the establishment could not obtain rights superior to the rights of the transferee.

(3) A transfer which creates an equitable lien is not perfected if there are available means by which a legal lien could be created.

(4) A transfer not perfected prior to the filing of a petition for liquidation is deemed to be made immediately before the filing of the successful petition.

(5) This subsection applies whether or not there are or were creditors who might have obtained liens or persons who might have become bona fide purchasers.

c. (1) A lien obtainable by legal or equitable proceedings upon a simple contract is one arising in the ordinary course of the proceedings upon the entry or docketing of a judgment

or decree, or upon attachment, garnishment, execution, or like process, whether before, upon, or after judgment or decree and whether before or upon levy. It does not include liens which under applicable law are given a special priority over other liens which are prior in time.

(2) A lien obtainable by legal or equitable proceedings may become superior to the rights of a transferee, or a purchaser may obtain rights superior to the rights of a transferee within the meaning of paragraph "b", if such consequences follow only from the lien or purchase itself, or from the lien or purchase followed by a step wholly within the control of the respective lienholder or purchaser, with or without the aid of ministerial action by public officials. However, a lien could not become superior and a purchase could not create superior rights for the purpose of paragraph "b" through an act subsequent to the obtaining of a lien or subsequent to a purchase which requires the agreement or concurrence of any third party or which requires further judicial action or ruling.

d. A transfer of property for or on account of a new and contemporaneous consideration, which is under paragraph "b" made or suffered after the transfer because of delay in perfecting it, does not become a transfer for or on account of an antecedent debt if any acts required by the applicable law to be performed in order to perfect the transfer as against liens or a bona fide purchaser's rights are performed within twenty-one days or any period expressly allowed by the law, whichever is less. A transfer to secure a future loan, if a loan is actually made, or a transfer which becomes security for a future loan, shall have the same effect as a transfer for or on account of a new and contemporaneous consideration.

e. If a lien which is voidable under paragraph "a", subparagraph (2), has been dissolved by the furnishing of a bond or other obligation, the surety of which has been indemnified directly or indirectly by the transfer or the creation of a lien upon property of an establishment before the filing of a petition under this chapter which results in the liquidation order, the indemnifying transfer or lien is also voidable.

f. The property affected by a lien voidable under paragraphs "a" and "e" is discharged from the lien. The property and any of the indemnifying property transferred to or for the benefit of a surety shall pass to the liquidator. However, the court may on due notice order a lien to be preserved for the benefit of the estate and the court may direct that the conveyance be executed to evidence the title of the liquidator.

g. The court shall have summary jurisdiction of a proceeding by a liquidator to hear and determine the rights of the parties under this section. Reasonable notice of hearing in the proceeding shall be given to all parties in interest, including the obligee of a releasing bond or other like obligation. Where an order is entered for the recovery of indemnifying property in kind or for the avoidance of an indemnifying lien, upon application of any party in interest, the court shall in the same proceeding ascertain the value of the property or lien. If the value is less than the amount for which the property is indemnified or less than the amount of the lien, the transferee or lienholder may elect to retain the property or lien upon payment of its value, as ascertained by the court, to the liquidator within the time as fixed by the court.

h. The liability of a surety under a releasing bond or other like obligation is discharged to the extent of the value of the indemnifying property recovered or the indemnifying lien nullified and avoided by the liquidator. Where the property is retained under paragraph "g", the liability of the surety is discharged to the extent of the amount paid to the liquidator.

i. If a creditor has been preferred for property which becomes a part of the establishment's estate, and afterward in good faith gives the establishment further credit without security of any kind, the amount of the new credit remaining unpaid at the time of the petition may be set off against the preference which would otherwise be recoverable from the creditor.

j. If within four months before the filing of a successful petition for liquidation under this chapter, or at any time in contemplation of a proceeding to liquidate, an establishment, directly or indirectly, pays money or transfers property to an attorney for services rendered or to be rendered, the transaction may be examined by the court on its own motion or shall



be examined by the court on petition of the liquidator. The payment or transfer shall be held valid only to the extent of a reasonable amount to be determined by the court. The excess may be recovered by the liquidator for the benefit of the estate. However, where the attorney is in a position of influence in the establishment or<sup>7</sup> an affiliate, payment of any money or the transfer of any property to the attorney for services rendered or to be rendered shall be governed by the provisions of paragraph "a", subparagraph (2), subparagraph subdivision (d).

k. (1) An officer, manager, employee, shareholder, subscriber, attorney, or other person acting on behalf of the establishment who knowingly participates in giving any preference when the person has reasonable cause to believe the establishment is or is about to become insolvent at the time of the preference is personally liable to the liquidator for the amount of the preference. There is an inference that reasonable cause exists if the transfer was made within four months before the date of filing of this successful petition for liquidation.

(2) A person receiving property from the establishment or the benefit of the property of the establishment as a preference voidable under paragraph "a" is personally liable for the property and shall account to the liquidator.

(3) This subsection shall not prejudice any other claim by the liquidator against any person.

#### 10. CLAIMS OF HOLDER OF VOID OR VOIDABLE RIGHTS.

a. A claim of a creditor who has received or acquired a preference, lien, conveyance, transfer, assignment, or encumbrance, voidable under this chapter, shall not be allowed unless the creditor surrenders the preference, lien, conveyance, transfer, assignment, or encumbrance. If the avoidance is effected by a proceeding in which a final judgment has been entered, the claim shall not be allowed unless the money is paid or the property is delivered to the liquidator within thirty days from the date of the entering of the final judgment. However, the court having jurisdiction over the liquidation may allow further time if there is an appeal or other continuation of the proceeding.

b. A claim allowable under paragraph "a" by reason of a voluntary or involuntary avoidance, preference, lien, conveyance, transfer, assignment, or encumbrance may be filed as an excused late filing under subsection 12, if filed within thirty days from the date of the avoidance or within the further time allowed by the court under paragraph "a".

#### 11. LIQUIDATOR'S PROPOSAL TO DISTRIBUTE ASSETS.

a. From time to time as assets become available, the liquidator shall make application to the court for approval of a proposal to disburse assets out of marshaled assets.

b. The proposal shall at least include provisions for all of the following:

(1) Reserving amounts for the payment of all the following:

(a) Expenses of administration.

(b) To the extent of the value of the security held, the payment of claims of secured creditors.

(c) Claims falling within the priorities established in subsection 18, paragraphs "a" and "b".

(2) Disbursement of the assets marshaled to date and subsequent disbursement of assets as they become available.

c. Action on the application may be taken by the court provided that the liquidator's proposal complies with paragraph "b".

#### 12. FILING OF CLAIMS.

a. Proof of all claims shall be filed with the liquidator in the form required by subsection 13 on or before the last day for filing specified in the notice required under subsection 4.

b. The liquidator may permit a claimant making a late filing to share in distributions, whether past or future, as if the claimant were not late, to the extent that the payment will not prejudice the orderly administration of the liquidation under any of the following circumstances:

(1) The existence of the claim was not known to the claimant and the claimant filed the claim as promptly as reasonably possible after learning of it.

<sup>7</sup> The word "of" probably intended

(2) A transfer to a creditor was avoided under subsections 7 through 9, or was voluntarily surrendered under subsection 10, and the filing satisfies the conditions of subsection 10.

(3) The valuation under subsection 17 of security held by a secured creditor shows a deficiency, which is filed within thirty days after the valuation.

c. The liquidator may consider any claim filed late and permit the claimant to receive distributions which are subsequently declared on any claims of the same or lower priority if the payment does not prejudice the orderly administration of the liquidation. The late-filing claimant shall receive at each distribution the same percentage of the amount allowed on the claim as is then being paid to claimants of any lower priority. This shall continue until the claim has been paid in full.

#### 13. PROOF OF CLAIM.

a. Proof of claim shall consist of a statement signed by the claimant that includes all of the following that are applicable:

(1) The particulars of the claim, including the consideration given for it.

(2) The identity and amount of the security on the claim.

(3) The payments, if any, made on the debt.

(4) A statement that the sum claimed is justly owing and that there is no setoff, counterclaim, or defense to the claim.

(5) Any right of priority of payment or other specific right asserted by the claimant.

(6) A copy of the written instrument which is the foundation of the claim.

(7) The name and address of the claimant and the attorney who represents the claimant, if any.

b. A claim need not be considered or allowed if it does not contain all the information identified in paragraph "a" which is applicable. The liquidator may require that a prescribed form be used and may require that other information and documents be included.

c. At any time the liquidator may request the claimant to present information or evidence supplementary to that required under paragraph "a", and may take testimony under oath, require production of affidavits or depositions, or otherwise obtain additional information or evidence.

d. A judgment or order against an establishment entered after the date of filing of a successful petition for liquidation, or a judgment or order against the establishment entered at any time by default or by collusion need not be considered as evidence of liability or of the amount of damages. A judgment or order against an establishment before the filing of the petition need not be considered as evidence of liability or of the amount of damages.

#### 14. SPECIAL CLAIMS.

a. A claim may be allowed even if contingent, if it is filed pursuant to subsection 12. The claim may be allowed and the claimant may participate in all distributions declared after it is filed to the extent that it does not prejudice the orderly administration of the liquidation.

b. Claims that are due except for the passage of time shall be treated as absolute claims are treated. However, the claims may be discounted at the legal rate of interest.

c. Claims made under employment contracts by directors, principal officers, or persons in fact performing similar functions or having similar powers are limited to payment for services rendered prior to the issuance of an order of liquidation under subsection 2.

#### 15. DISPUTED CLAIMS.

a. If a claim is denied in whole or in part by the liquidator, written notice of the determination shall be given to the claimant or the claimant's attorney by first-class mail at the address shown in the proof of claim. Within sixty days from the mailing of the notice, the claimant may file objections with the liquidator. Unless a filing is made, the claimant shall not further object to the determination.

b. If objections are filed with the liquidator and the liquidator does not alter the denial of the claim as a result of the objections, the liquidator shall ask the court for a hearing as soon as practicable and give notice of the hearing by first-class mail to the claimant or the claimant's attorney and to any other persons directly affected. The notice shall be given not

less than ten nor more than thirty days before the date of hearing. The matter shall be heard by the court or by a court-appointed referee. The referee shall submit findings of fact along with a recommendation.

16. CLAIMS OF OTHER PERSON. If a creditor, whose claim against an establishment is secured in whole or in part by the undertaking of another person, fails to prove and file that claim, then the other person may do so in the creditor's name and shall be subrogated to the rights of the creditor, whether the claim has been filed by the creditor or by the other person in the creditor's name to the extent that the other person discharges the undertaking. However, in the absence of an agreement with the creditor to the contrary, the other person is not entitled to any distribution until the amount paid to the creditor on the undertaking plus the distributions paid on the claim from the establishment's estate to the creditor equal the amount of the entire claim of the creditor. An excess received by the creditor shall be held by the creditor in trust for the other person.

17. SECURED CREDITOR'S CLAIMS.

a. The value of the security held by a secured creditor shall be determined in one of the following ways, as the court may direct:

(1) By converting the security into money according to the terms of the agreement pursuant to which the security was delivered to the creditors.

(2) By agreement, arbitration, compromise, or litigation between the creditor and the liquidator.

b. The determination shall be under the supervision and control of the court with due regard for the recommendation of the liquidator. The amount so determined shall be credited upon the secured claim. A deficiency shall be treated as an unsecured claim. If the claimant surrenders the security to the liquidator, the entire claim shall be allowed as if unsecured.

18. PRIORITY OF DISTRIBUTION. The priority of distribution of claims from the establishment's estate shall be in accordance with the order in which each class of claims is set forth. Claims in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. Subclasses shall not be established within a class. The order of distribution of claims is as follows:

a. CLASS 1. The costs and expenses of administration, including but not limited to the following:

(1) Actual and necessary costs of preserving or recovering the assets of the establishment.

(2) Compensation for all authorized services rendered in the liquidation.

(3) Necessary filing fees.

(4) Fees and mileage payable to witnesses.

(5) Authorized reasonable attorney fees and other professional services rendered in the liquidation.

b. CLASS 2. Reasonable compensation to employees for services performed to the extent that they do not exceed two months of monetary compensation and represent payment for services performed within one year before the filing of the petition for liquidation. Officers and directors are not entitled to the benefit of this priority. The priority is in lieu of other similar priority which may be authorized by law as to wages or compensation of employees.

c. CLASS 3. Claims under purchase agreements.

d. CLASS 4. Claims of general creditors.

e. CLASS 5. Claims of the federal or of any state or local government. Claims, including those of a governmental body for a penalty or forfeiture, are allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs incurred. The remainder of such claims shall be postponed to the class of claims under paragraph "g".

f. CLASS 6. Claims filed late or any other claims other than claims under paragraph "g".

g. CLASS 7. The claims of shareholders or other owners.

#### 19. LIQUIDATOR'S RECOMMENDATIONS TO THE COURT.

a. The liquidator shall review claims duly filed in the liquidation and shall make further investigation as necessary. The liquidator may compound, compromise, or in any other manner negotiate the amount for which claims will be recommended to the court except where the liquidator is required by law to accept claims as settled by a person or organization. Unresolved disputes shall be determined under subsection 15. As soon as practicable, the liquidator shall present to the court a report of the claims against the establishment with the liquidator's recommendations. The report shall include the name and address of each claimant and the amount of the claim finally recommended.

b. The court may approve, disapprove, or modify the report on claims by the liquidator. Reports not modified by the court within sixty days following submission by the liquidator shall be treated by the liquidator as allowed claims, subject to later modification or to rulings made by the court pursuant to subsection 15. A claim under a policy of insurance shall not be allowed for an amount in excess of the applicable policy limits.

20. DISTRIBUTION OF ASSETS. Under the direction of the court, the liquidator shall pay distributions in a manner that will ensure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including third-party claims. Distribution of assets in kind may be made at valuations set by agreement between the liquidator and the creditor and approved by the court.

#### 21. UNCLAIMED AND WITHHELD FUNDS.

a. Unclaimed funds subject to distribution remaining in the liquidator's hands when the liquidator is ready to apply to the court for discharge, including the amount distributable to a creditor, owner, or other person who is unknown or cannot be found, shall be deposited with the treasurer of the state, and shall be paid without interest, except as provided in subsection 18, to the person entitled or to the person's legal representative upon proof satisfactory to the treasurer of state of the right to the funds. Any amount on deposit not claimed within six years from the discharge of the liquidator is deemed to have been abandoned and shall become the property of the state without formal escheat proceedings and be transferred to the insurance division regulatory fund.

b. Funds withheld under subsection 14 and not distributed shall upon discharge of the liquidator be deposited with the treasurer of state and paid pursuant to subsection 18. Sums remaining which under subsection 18 would revert to the undistributed assets of the establishment shall be transferred to the insurance division regulatory fund and become the property of the state as provided under paragraph "a", unless the commissioner in the commissioner's discretion petitions the court to reopen the liquidation pursuant to subsection 23.

c. Notwithstanding any other provision of this chapter, funds as identified in paragraph "a", with the approval of the court, shall be made available to the commissioner for use in the detection and prevention of future insolvencies. The commissioner shall hold these funds in the insurance division regulatory fund and shall pay without interest, except as provided in subsection 18, to the person entitled to the funds or to the person's legal representative upon proof satisfactory to the commissioner of the person's right to the funds. The funds shall be held by the commissioner for a period of two years at which time the rights and duties to the unclaimed funds shall vest in the commissioner.

#### 22. TERMINATION OF PROCEEDINGS.

a. When all assets justifying the expense of collection and distribution have been collected and distributed under this chapter, the liquidator shall apply to the court for discharge. The court may grant the discharge and make any other orders, including an order to transfer remaining funds that are uneconomical to distribute, as appropriate.

b. Any other person may apply to the court at any time for an order under paragraph "a". If the application is denied, the applicant shall pay the costs and expenses of the liquidator in resisting the application, including a reasonable attorney fee.

23. REOPENING LIQUIDATION. At any time after the liquidation proceeding has been terminated and the liquidator discharged, the commissioner or other interested party may

petition the court to reopen the proceedings for good cause including the discovery of additional assets. The court shall order the proceeding reopened if it is satisfied that there is justification for the reopening.

24. **DISPOSITION OF RECORDS DURING AND AFTER TERMINATION OF LIQUIDATION.** If it appears to the commissioner that the records of an establishment in the process of liquidation or completely liquidated are no longer useful, the commissioner may recommend to the court and the court shall direct what records shall be retained for future reference and what records shall be destroyed.

25. **EXTERNAL AUDIT OF LIQUIDATOR'S BOOKS.** The court may order audits to be made of the books of the commissioner relating to a liquidation established under this chapter, and a report of each audit shall be filed with the commissioner and with the court. The books, records, and other documents of the liquidation shall be made available to the auditor at any time without notice. The expense of an audit shall be considered a cost of administration of the liquidation.

Sec. 55. Section 537A.10, subsection 1, paragraph c, subparagraph (3), Code 2001, is amended to read as follows:

(3) "Franchise" also does not include any contract under which a petroleum retailer or petroleum distributor is authorized or permitted to occupy leased marketing premises, which premises are to be employed in connection with the sale, consignment, or distribution of motor fuel under a trademark which is owned or controlled by a refiner which is regulated by the federal Petroleum Marketing Practices Act, 15 U.S.C. § 2801 et seq. The term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, and includes any affiliate of such person. "Franchise" also does not include a contract entered into by any person regulated under chapter 123, 322, 322A, 322B, 322C, 322D, 322F, ~~522~~ 522B,<sup>8</sup> or 543B, or a contract establishing a franchise relationship with respect to the sale of construction equipment, lawn or garden equipment, or real estate.

Sec. 56. 2001 Iowa Acts, Senate File 500,<sup>9</sup> section 39, is amended to read as follows:

SEC. 39. **EFFECTIVE DATE.** Sections 4, 5, 7 through 11, 13 through 22, 34, and 38 of this Act take effect January 1, 2002.

Sec. 57. Chapters 523A and 523E, Code 2001, are repealed.

Sec. 58. Section 502.207B, Code 2001, is repealed.

Approved May 7, 2001

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## CHAPTER 119

### TAX ASSESSMENT OF PROPERTY RENTED OR LEASED TO LOW-INCOME PERSONS

S.F. 519

**AN ACT** relating to the assessment for property tax purposes of certain affordable housing for low-income individuals and families.

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

Section 1. Section 441.21, subsection 2, Code 2001, is amended to read as follows:

2. In the event market value of the property being assessed cannot be readily established

<sup>8</sup> See chapter 16 herein

<sup>9</sup> Chapter 69 herein

in the foregoing manner, then the assessor may determine the value of the property using the other uniform and recognized appraisal methods including its productive and earning capacity, if any, industrial conditions, its cost, physical and functional depreciation and obsolescence and replacement cost, and all other factors which would assist in determining the fair and reasonable market value of the property but the actual value shall not be determined by use of only one such factor. The following shall not be taken into consideration: Special value or use value of the property to its present owner, and the good will or value of a business which uses the property as distinguished from the value of the property as property. However, in assessing property that is rented or leased to low-income individuals and families as authorized by section 42 of the Internal Revenue Code, as amended, and which section limits the amount that the individual or family pays for the rental or lease of units in the property, the assessor shall use the productive and earning capacity from the actual rents received as a method of appraisal and shall take into account the extent to which that use and limitation reduces the market value of the property. The assessor shall not consider any tax credit equity or other subsidized financing as income provided to the property in determining the assessed value. Upon adoption of uniform rules by the revenue department or succeeding authority covering assessments and valuations of such properties, said valuation on such properties shall be determined in accordance therewith for assessment purposes to assure uniformity, but such rules shall not be inconsistent with or change the foregoing means of determining the actual, market, taxable and assessed values.

Approved May 7, 2001

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## CHAPTER 120

### OFFENSES AGAINST ANIMAL FACILITIES OR CROP OPERATIONS

#### *H.F. 502*

**AN ACT** relating to agricultural production, by prohibiting acts relating to facilities or operations, making penalties applicable, and providing penalties and civil liability.

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

Section 1. NEW SECTION. 717A.0A DEFINITIONS.

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

1. "Agricultural animal" means any of the following:
  - a. An animal that is maintained for its parts or products having commercial value, including but not limited to its muscle tissue, organs, fat, blood, manure, bones, milk, wool, hide, pelt, feathers, eggs, semen, embryos, or honey.
  - b. An animal belonging to the equine species, including horse, pony, mule, jenny, donkey, or hinny.
2. "Agricultural production" means any activity related to maintaining an agricultural animal at an animal facility or a crop on crop operation property.
3. "Animal" means a warm-blooded or cold-blooded animal, including but not limited to an animal belonging to the bovine, canine, feline, equine, ovine, or porcine species; farm deer as defined in section 189A.2; ostriches, rheas, or emus; an animal which belongs to a species of poultry or fish; mink or other pelt-bearing mammals; any invertebrate; or honey bees.

4. "Animal facility" means any of the following:
  - a. A location where an agricultural animal is maintained for agricultural production purposes, including but not limited to a location dedicated to farming as defined in section 9H.1, a livestock market, exhibition, or a vehicle used to transport the animal.
  - b. A location where an animal is maintained for educational or scientific purposes, including an institution as defined in section 145B.1, a research facility as defined in section 162.2, an exhibition, or a vehicle used to transport the animal.
  - c. A location operated by a person licensed to practice veterinary medicine pursuant to chapter 169.
  - d. A pound as defined in section 162.2.
  - e. An animal shelter as defined in section 162.2.
  - f. A pet shop as defined in section 162.2.
  - g. A boarding kennel as defined in section 162.2.
  - h. A commercial kennel as defined in section 162.2.
5. "Consent" means express or apparent assent by a person authorized to provide such assent.
6. a. "Crop" means any plant maintained for its parts or products having commercial value, including but not limited to stalks, trunks and branches, cuttings, grafts, scions, leaves, buds, fruit, vegetables, roots, bulbs, or seeds, if the plant is any of the following:
  - (1) A plant produced from an agricultural seed or vegetable seed as defined in section 199.1, including any plant producing a commodity listed in section 210.10.
  - (2) A plant which is a tree, shrub, vine, berry plant, greenhouse plant, or flower.
- b. A plant produced from a noxious weed seed as defined in section 199.1 is not a crop unless the plant is produced as a research crop.
7. "Crop operation" means a commercial enterprise where a crop is maintained on the property of the commercial enterprise.
8. "Crop operation property" means any of the following:
  - a. Real property that is a crop field, orchard, nursery, greenhouse, garden, elevator, seedhouse, barn, warehouse, any other associated land or structures located on the land, and personal property located on the land including machinery or equipment, that is part of a crop operation.
  - b. A vehicle used to transport a crop that was maintained on the crop operation property.
9. "Deprive" means to do any of the following:
  - a. For an animal maintained at an animal facility or property belonging to an animal facility, "deprive" means to do any of the following:
    - (1) Withhold the animal or property for a period of time sufficient to significantly reduce the value or enjoyment of the animal or property.
    - (2) Withhold the animal or property for ransom or upon condition to restore the animal or property in return for compensation.
    - (3) Dispose of the animal or property in a manner that makes recovery of the animal or property by its owner unlikely.
  - b. For crops maintained on crop operation property or for crop operation property, "deprive" means to do any of the following:
    - (1) Occupy any part of a crop operation property for a period of time sufficient to prevent access to the crop or crop operation property.
    - (2) Dispose of a crop maintained on the crop operation property or belonging to the crop operation in a manner that makes recovery of the crop or crop operation property by its owner unlikely.
10. "Maintain" means to do any of the following:
  - a. Keep and provide for the care and feeding of any animal, including any activity relating to confining, handling, breeding, transporting, or exhibiting the animal.
  - b. Keep and preserve any crop, by planting, nurturing, harvesting, and storing the crop; or storing, planting, or nurturing the crop's seed.

11. "Owner" means any of the following:

a. A person, including a public or private entity, who has a legal interest in an animal or property belonging to an animal facility or who is authorized by the holder of the legal interest to act on the holder's behalf in maintaining the animal.

b. A person, including a public or private entity, who has a legal interest in a crop or crop operation property or who is authorized by the holder of the legal interest to act on the holder's behalf in maintaining the crop.

12. "Research crop" means a crop, including the crop's seed, that is maintained for purposes of scientific research regarding the study or alteration of the genetic characteristics of a plant or associated seed, including its deoxyribonucleic acid, which is accomplished by breeding or by using biotechnological systems or techniques.

Sec. 2. Section 717A.1, subsection 1, Code 2001, is amended by striking the subsection.

Sec. 3. Section 717A.1, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. Willfully destroy property of an animal facility, or kill or injure an animal maintained at an animal facility, including by an act of violence or the transmission of a disease including but not limited to any disease designated by the department of agriculture and land stewardship pursuant to section 163.2.

Sec. 4. Section 717A.1, subsection 2, paragraph c, subparagraph (2), Code 2001, is amended to read as follows:

(2) ~~Injure~~ Kill or injure an animal maintained at the animal facility.

Sec. 5. Section 717A.1, subsection 5, Code 2001, is amended to read as follows:

5. a. This section does not prohibit any conduct of a person holding a legal interest in an animal or property which is superior to the interest held by a person suffering from damages resulting from the conduct.

b. ~~The~~ This section does not apply to ~~activities of a governmental agency that is taking lawful action against an animal or animal facility.~~

c. This section does not apply to a licensed veterinarian practicing veterinary medicine as provided in chapter 169 and according to customary standards of care.

Sec. 6. NEW SECTION. 717A.2 CROPS OR CROP OPERATION PROPERTY DAMAGE — CIVIL ACTION — CRIMINAL PENALTIES.

1. A person shall not, without the consent of the owner, do any of the following:

a. Willfully destroy or damage a crop maintained on crop operation property or crop operation property.

b. Exercise control over a crop maintained on crop operation property or crop operation property with an intent to deprive the owner of the crop or crop operation property.

c. Enter onto or remain on crop operation property, if the person has notice that the property is not open to the public, and the person has an intent to do one of the following:

(1) Disrupt agricultural production conducted on the crop operation property, if the agricultural production directly relates to the maintenance of crops. A person is presumed to intend disruption, if the person moves, removes, or defaces any sign posted on the crop operation property or label used by the owner and the sign or label identifies a crop maintained on the crop operation property.

(2) Destroy or damage a crop or any portion of a crop maintained on the crop operation property.

A person has notice that a crop operation property is not open to the public if the person is provided notice prohibiting entry before the person enters onto the crop operation property, or the person refuses to immediately depart from the crop operation property after being notified to leave. The notice may be in the form of a written or verbal communication by the owner, a fence or other enclosure designed to exclude intruders, or a sign posted which is



reasonably likely to come to the attention of an intruder and which indicates that entry is prohibited.

2. a. A person suffering damages resulting from an act which is in violation of this section may bring an action in the district court against the person causing the damage to recover all of the following:

(1) For damages that are not to a research crop, an amount equaling three times all actual and consequential losses.

(2) For damages to a research crop, all of the following:

(a) Twice the amount of damages directly incurred by market losses, based on the lost market value of the research crop due to the damage, assuming that the research crop would have matured undamaged and been sold in normal commercial channels. If the research crop has no market value, the damages shall be twice the amount of actual damages incurred in producing, harvesting, and storing the damaged research crop.

(b) Twice the amount of damages directly incurred by developmental losses, based on the losses associated with the research crop's expected scientific value. The research crop's scientific value shall be determined by calculating the amount expended in developing the research crop, including costs associated with researching, testing, breeding, or engineering. However, such damages shall not be awarded to the extent that the losses are mitigated by undamaged research crops that have been identically developed.

b. A prevailing plaintiff in an action brought under this section shall be awarded court costs and reasonable attorney fees, which shall be taxed as part of the costs of the action.

3. A person who violates this section as it applies to a research crop or crop operation property where a research crop is maintained is guilty of the following:

a. For a violation of subsection 1, paragraph "a", the person is guilty of criminal mischief as provided in section 716.1, and commits the same class of offense as provided in sections 716.3 through 716.6 based on the amount of damage to the research crop or crop operation property where the research crop is maintained.

b. For a violation of subsection 1, paragraph "b", the person is guilty of a class "D" felony.

c. For a violation of subsection 1, paragraph "c", the person is guilty of an aggravated misdemeanor.

4. A person who violates this section as it applies to a crop other than a research crop or crop operation property where a research crop is not maintained is guilty of the following:

a. For a violation of subsection 1, paragraph "a", the person is guilty of criminal mischief as provided in section 716.1, and commits the same class of offense as provided in sections 716.3 through 716.6 based on the amount of damage to the crop or crop operation property where the crop is maintained.

b. For a violation of subsection 1, paragraph "b", the person is guilty of an aggravated misdemeanor.

c. For a violation of subsection 1, paragraph "c", the person is guilty of a serious misdemeanor.

5. a. This section does not prohibit any conduct of a person holding a legal interest in a crop operation that is superior to the interest held by a person suffering from damages resulting from the conduct.

b. This section does not apply to a governmental agency that is taking lawful action against a crop or crop operation property.

**CHAPTER 121****EMPLOYEE COMPENSATION FOR TRAVEL TIME  
TO AND FROM WORKSITES***H.F. 635*

**AN ACT** providing that certain employees are not entitled to compensation for time spent traveling to and from the worksite.

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

Section 1. NEW SECTION. 91A.13 TRAVEL TIME TO WORKSITE — NOT COMPENSABLE.

Unless a collective bargaining agreement provides otherwise, an employee is not entitled to compensation for the time that an employee spends traveling to and from the worksite on transportation provided by the employer, when during that time, the employee performs no work, the transportation is provided by the employer as a convenience for the employee, and the employee is not required by the employer to use that means of transportation to the worksite. An employee is entitled to compensation for the time that an employee spends traveling between worksites if the travel is done during working hours.

Approved May 7, 2001

**CHAPTER 122****CHILD AND DEPENDENT ADULT ABUSE REPORTING***H.F. 680*

**AN ACT** relating to child and dependent abuse reporting and civil remedies pertaining to such reporting.

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

Section 1. Section 135.11, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 26. Establish an abuse education review panel for review and approval of mandatory reporter training curricula for those persons who work in a position classification that under law makes the persons mandatory reporters of child or dependent adult abuse and the position classification does not have a mandatory reporter training curriculum approved by a licensing or examining board.

Sec. 2. Section 232.69, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. Any of the following persons who, in the scope of professional practice or in their employment responsibilities, examines, attends, counsels, or treats a child and reasonably believes a child has suffered abuse:

- (1) A self-employed social worker.
- ~~(2) A social worker under the jurisdiction of the department of human services.~~
- ~~(3) A social worker employed by a public or private agency or institution.~~
- (4) (2) An employee or operator of a public or private health care facility as defined in section 135C.1.
- ~~(5) (3) A certified psychologist.~~

~~(6)~~ (4) A licensed school employee, certified paraeducator, or holder of a coaching authorization issued under section 272.31.

~~(7)~~ (5) An employee or operator of a licensed child care center, ~~or~~ registered child care home, head start program, family development and self-sufficiency grant program under section 217.12, or healthy opportunities for parents to experience success—healthy families Iowa program under section 135.106.

~~(8)~~ (6) An employee or operator of a substance abuse program or facility licensed under chapter 125.

~~(9)~~ (7) An employee of a department of human services institution listed in section 218.1.

~~(10)~~ (8) An employee or operator of a juvenile detention or juvenile shelter care facility approved under section 232.142.

~~(11)~~ (9) An employee or operator of a foster care facility licensed or approved under chapter 237.

~~(12)~~ (10) An employee or operator of a mental health center.

~~(13)~~ (11) A peace officer.

~~(14)~~ A dental hygienist.

~~(15)~~ (12) A counselor, or mental health professional.

Sec. 3. Section 232.69, subsection 3, Code 2001, is amended to read as follows:

3. a. For the purposes of this subsection, “licensing board” means an examining board designated in section 147.13, the board of educational examiners created in section 272.2, or a licensing board as defined in section 272C.1.

b. A person required to make a report under subsection 1, other than a physician whose professional practice does not regularly involve providing primary health care to children, shall complete two hours of training relating to the identification and reporting of child abuse within six months of initial employment or self-employment involving the examination, attending, counseling, or treatment of children on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person’s employer or, if self-employed, from the department. The person shall complete at least two hours of additional child abuse identification and reporting training every five years.

c. If the person is an employee of a hospital or similar institution, or of a public or private institution, agency, or facility, the employer shall be responsible for providing the child abuse identification and reporting training. If the person is self-employed, employed in a licensed or certified profession, or employed by a facility or program that is subject to licensure, regulation, or approval by a state agency, the person shall ~~be responsible for obtaining~~ obtain the child abuse identification and reporting training as provided in paragraph “d”.

d. The person may complete the initial or additional training requirements as part of a any of the following that are applicable to the person:

(1) A continuing education program required under chapter 272C or may complete the training as part of a and approved by the appropriate licensing or examining board.

(2) A training program using a curriculum approved by the abuse education review panel established by the director of public health pursuant to section 135.11.

(3) A training program using such an approved curriculum offered by the department of human services, the department of education, an area education agency, a school district, the Iowa law enforcement academy, or a similar public agency.

e. A licensing board with authority over the license of a person required to make a report under subsection 1 shall require as a condition of licensure that the person is in compliance with the requirements for abuse training under this subsection. The licensing board shall require the person upon licensure renewal to accurately document for the licensing board the person’s completion of the training requirements. However, the licensing board may adopt rules providing for waiver or suspension of the compliance requirements, if the waiver or suspension is in the public interest, applicable to a person who is engaged in active duty in the military service of this state or of the United States, to a person for whom compliance

with the training requirements would impose a significant hardship, or to a person who is practicing a licensed profession outside this state or is otherwise subject to circumstances that would preclude the person from encountering child abuse in this state.

f. For persons required to make a report under subsection 1 who are not engaged in a licensed profession that is subject to the authority of a licensing board but are employed by a facility or program subject to licensure, registration, or approval by a state agency, the agency shall require as a condition of renewal of the facility's or program's licensure, registration, or approval, that such persons employed by the facility or program are in compliance with the training requirements of this subsection.

g. For peace officers, the elected or appointed official designated as the head of the agency employing the peace officer shall ensure compliance with the training requirements of this subsection.

h. For persons required to make a report under subsection 1 who are employees of state departments and political subdivisions of the state, the department director or the chief administrator of the political subdivision shall ensure the persons' compliance with the training requirements of this subsection.

Sec. 4. Section 232.70, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. The employer or supervisor of a person who is a mandatory or permissive reporter shall not apply a policy, work rule, or other requirement that interferes with the person making a report of child abuse.

Sec. 5. Section 232.71B, subsection 14, Code 2001, is amended to read as follows:

14. FALSE REPORTS. If a fourth report is received from the same person who made three earlier reports which identified the same child as a victim of child abuse and the same person responsible for the care of the child as the alleged abuser and which were determined by the department to be entirely false or without merit, the department may determine that the report is again false or without merit due to the report's spurious or frivolous nature and may in its discretion terminate its assessment of the report. If the department receives more than three reports which identify the same child as a victim of child abuse or the same person as the alleged abuser of a child, or which were made by the same person, and the department determined the reports to be entirely false or without merit, the department shall provide information concerning the reports to the county attorney for consideration of criminal charges under section 232.75, subsection 3.

Sec. 6. Section 232.75, subsection 2, Code 2001, is amended to read as follows:

2. Any person, official, agency, or institution, required by section 232.69 to report a suspected case of child abuse who knowingly fails to do so or who knowingly interferes with the making of such a report in violation of section 232.70, is civilly liable for the damages proximately caused by such failure or interference.

Sec. 7. Section 235B.3, subsection 2, paragraphs a, b, and c, Code 2001, are amended to read as follows:

a. A self-employed social worker.

~~b. A social worker or an income maintenance worker under the jurisdiction of the department of human services.~~

~~c. A social worker employed by a public or private person including a public or private health care facility as defined in section 135C.1.~~

Sec. 8. Section 235B.3, subsection 3, Code 2001, is amended to read as follows:

3. a. If a staff member or employee is required to report pursuant to this section, the person shall immediately notify the person in charge or the person's designated agent, and the person in charge or the designated agent shall make the report by the end of the next business day.

b. The employer or supervisor of a person who is required to or may make a report pursuant to this section shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.

Sec. 9. Section 235B.3, subsection 7, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, ~~or~~ a social services agency in the state, or any person who is required pursuant to subsection 2 to report dependent adult abuse, whether or not the person made the specific dependent adult abuse report, shall cooperate and assist in the evaluation upon the request of the department. If the department's assessment reveals that dependent adult abuse exists which might constitute a criminal offense, a report shall be made to the appropriate law enforcement agency. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

Sec. 10. Section 235B.3, subsection 10, Code 2001, is amended to read as follows:

10. A person required by this section to report a suspected case of dependent adult abuse who knowingly and willfully fails to do so ~~is guilty of~~ commits a simple misdemeanor. A person required by this section to report a suspected case of dependent adult abuse who knowingly fails to do so or who knowingly, in violation of subsection 3, interferes with the making of such a report or applies a requirement that results in such a failure, is civilly liable for the damages proximately caused by the failure.

Sec. 11. Section 235B.16, subsection 5, Code 2001, is amended to read as follows:

5. a. For the purposes of this subsection, "licensing board" means an examining board designated in section 147.13, the board of educational examiners created in section 272.2, or a licensing board as defined in section 272C.1.

b. A person required to report cases of dependent adult abuse pursuant to section 235B.3, other than a physician whose professional practice does not regularly involve providing primary health care to adults, shall complete two hours of training relating to the identification and reporting of dependent adult abuse within six months of initial employment or self-employment which involves the examination, attending, counseling, or treatment of adults on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person's employer or, if self-employed, from the department. The person shall complete at least two hours of additional dependent adult abuse identification and reporting training every five years.

c. If the person is an employee of a hospital or similar public or private facility, the employer shall be responsible for providing the training. To the extent that the employer provides approved training on the employer's premises, the hours of training completed by employees shall be included in the calculation of nursing or service hours required to be provided to a patient or resident per day. If the person is self-employed, employed in a licensed or certified profession, or employed by a facility or program that is subject to licensure, regulation, or approval by a state agency, the person shall ~~be responsible for obtaining~~ obtain the training as provided in paragraph "d".

d. The person may complete the initial or additional training requirements as a part of a any of the following that are applicable to the person:

(1) A continuing education program required under chapter 272C ~~or may complete the training as a part of a~~ and approved by the appropriate licensing or examining board.

(2) A training program using a curriculum approved by the abuse education review panel established by the director of public health pursuant to section 135.11.

(3) A training program using such an approved curriculum offered by the department of human services, the department of elder affairs, the department of inspections and appeals, the Iowa law enforcement academy, or a similar public agency.

e. A person required to complete both child abuse and dependent adult abuse mandatory reporter training may complete the training through a program which combines child abuse and dependent adult abuse curricula and thereby meet the training requirements of both this subsection and section 232.69 simultaneously. A person who is a mandatory reporter for both child abuse and dependent adult abuse may satisfy the combined training requirements of this subsection through completion of a two-hour training program, ~~if the training program curriculum and content are approved by the department of human services is approved by the appropriate licensing or examining board or the abuse education review panel established by the director of public health pursuant to section 135.11.~~

f. A licensing board with authority over the license of a person required to report cases of dependent adult abuse pursuant to section 235B.3 shall require as a condition of licensure that the person is in compliance with the requirements for abuse training under this subsection. The licensing board shall require the person upon licensure renewal to accurately document for the licensing board the person's completion of the training requirements. However, the licensing board may adopt rules providing for waiver or suspension of the compliance requirements, if the waiver or suspension is in the public interest, applicable to a person who is engaged in active duty in the military service of this state or of the United States, to a person for whom compliance with the training requirements would impose a significant hardship, or to a person who is practicing a licensed profession outside this state or is otherwise subject to circumstances that would preclude the person from encountering dependent adult abuse in this state.

g. For persons required to report cases of dependent adult abuse pursuant to section 235B.3, who are not engaged in a licensed profession that is subject to the authority of a licensing board but are employed by a facility or program subject to licensure, registration, or approval by a state agency, the agency shall require as a condition of the renewal of the facility's or program's licensure, registration, or approval, that such persons employed by the facility or program are in compliance with the training requirements of this subsection.

h. For peace officers, the elected or appointed official designated as the head of the agency employing the peace officer shall ensure compliance with the training requirements of this subsection.

i. For persons required to report cases of dependent adult abuse pursuant to section 235B.3 who are employees of state departments and political subdivisions of the state, the department director or the chief administrator of the political subdivision shall ensure the persons' compliance with the training requirements of this subsection.

Approved May 7, 2001

## CHAPTER 123

### ETHANOL BLENDED GASOLINE — RELATED TAXES

H.F. 716

**AN ACT** providing for taxes relating to ethanol blended gasoline, making penalties applicable, and providing for the Act's applicability.

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

Section 1. Section 15.333, subsection 1,<sup>1</sup> Code Supplement 1999, as amended by 2000 Iowa Acts, chapter 1213, section 1, is amended to read as follows:

1. An eligible business may claim a corporate tax credit up to a maximum of ten percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business under the program. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. Subject to prior approval by the department of economic development in consultation with the department of revenue and finance, an eligible business whose project primarily involves the production of value-added agricultural products may elect to refund all or a portion of an unused tax credit. For purposes of this section, an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, and whose project primarily involves the production of ethanol. The refund may be used against a tax liability imposed under chapter 422, division II, III, or V. If the business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust. For purposes of this section, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, and the cost of improvements made to real property which is used in the operation of the eligible business and which receives a partial property tax exemption for the actual value added under section 15.332.

1A. An eligible business whose project primarily involves the production of value-added agricultural products, that elects to receive a refund of all or a portion of an unused tax credit, shall apply to the department of economic development for tax credit certificates. An eligible business whose project primarily involves the production of value-added agricultural products shall not claim a tax credit under this section unless a tax credit certificate issued by the department of economic development is attached to the taxpayer's tax return for the tax year during which the tax credit is claimed. For purposes of this section, an eligible business includes a cooperative described in section 521 of the Internal Revenue Code which is not required to file an Iowa corporate income tax return, and whose project primarily involves the production of ethanol. A tax credit certificate shall not be valid until the tax year following the date of the project completion. A tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of the tax credit, other information required by the department of revenue and finance. The department of economic development shall not issue tax credit certificates which total more than four million dollars during a fiscal year. If the department receives applications for tax credit certificates in excess of four million dollars, the applicants shall receive certificates for a prorated amount. The tax credit certificates shall not be transferred. For a cooperative described in section 521 of the Internal Revenue Code that is not required to file an Iowa corporate income tax return, the department of economic development shall require that the

<sup>1</sup> Subsections 1 and 1A probably intended

cooperative submit a list of its members and the share of each member's interest in the cooperative. The department shall issue a tax credit certificate to each member contained on the submitted list.

Sec. 2. NEW SECTION. 422.11C ETHANOL BLENDED GASOLINE TAX CREDIT.

1. As used in this section, unless the context otherwise requires:

- a. "Ethanol blended gasoline" means the same as defined in section 452A.2.
- b. "Gasoline" means gasoline that meets the specifications required by the department of agriculture and land stewardship pursuant to section 214A.2 that is dispensed through a metered pump.
- c. "Metered pump" means a motor vehicle fuel pump licensed by the department of agriculture and land stewardship pursuant to chapter 214.
- d. "Retail dealer" means a retail dealer as defined in section 214A.1 who operates a metered pump at a service station.
- e. "Sell" means to sell on a retail basis.
- f. "Service station" means each geographic location in this state where a retail dealer sells and dispenses gasoline on a retail basis.
- g. "Tax credit" means the designated ethanol blended gasoline tax credit as provided in this section.

2. The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an ethanol blended gasoline tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this section. In order to be eligible, all of the following must apply:

- a. The taxpayer is a retail dealer.
- b. The taxpayer operates at least one service station at which more than sixty percent of the total gallons of gasoline sold and dispensed through one or more metered pumps by the taxpayer in the tax year is ethanol blended gasoline.
- c. The taxpayer complies with requirements of the department required to administer this section.

3. The tax credit shall be calculated separately for each service station site operated by the taxpayer. The amount of the tax credit for each eligible service station is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all metered pumps located at that service station during the tax year in excess of sixty percent of all gasoline sold and dispensed through metered pumps at that service station during the tax year.

4. Any credit in excess of the taxpayer's tax liability shall be refunded. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

5. An individual may claim the tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, limited liability company, S corporation, estate, or trust.

Sec. 3. Section 422.33, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 11. a. As used in this subsection, unless the context otherwise requires:

(1) "Ethanol blended gasoline", "gasoline", "metered pump", "retail dealer", "sell", and "service station" mean the same as defined in section 422.11C.

(2) "Tax credit" means the designated ethanol blended gasoline tax credit as provided in this subsection.

b. The taxes imposed under this division shall be reduced by an ethanol blended gasoline tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection. In order to be eligible, all of the following must apply:

- (1) The taxpayer is a retail dealer.



(2) The taxpayer operates at least one service station at which more than sixty percent of the total gallons of gasoline sold and dispensed through one or more metered pumps by the taxpayer is ethanol blended gasoline.

(3) The taxpayer complies with requirements of the department required to administer this subsection.

c. The tax credit shall be calculated separately for each service station site operated by the taxpayer. The amount of the tax credit for each eligible service station is two and one-half cents multiplied by the total number of gallons of ethanol blended gasoline sold and dispensed through all metered pumps located at that service station during the tax year in excess of sixty percent of all gasoline sold and dispensed through metered pumps at that service station during the tax year.

d. Any credit in excess of the taxpayer's tax liability shall be refunded. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

Sec. 4. Section 452A.3, subsection 1, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

1. Except as otherwise provided in this section and in this division, until June 30, 2007, this subsection shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

a. The rate of the excise tax shall be based on the number of gallons of ethanol blended gasoline that is distributed in this state as expressed as a percentage of the number of gallons of motor fuel distributed in this state, which is referred to as the distribution percentage. The department shall determine the percentage basis for each determination period beginning January 1 and ending December 31. The rate for the excise tax shall apply for the period beginning July 1 and ending June 30 following the end of the determination period.

b. The rate for the excise tax shall be as follows:

(1) If the distribution percentage is not greater than fifty percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty cents for motor fuel other than ethanol blended gasoline.

(2) If the distribution percentage is greater than fifty percent but not greater than fifty-five percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty and one-tenth cents for motor fuel other than ethanol blended gasoline.

(3) If the distribution percentage is greater than fifty-five percent but not greater than sixty percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty and three-tenths cents for motor fuel other than ethanol blended gasoline.

(4) If the distribution percentage is greater than sixty percent but not greater than sixty-five percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty and five-tenths cents for motor fuel other than ethanol blended gasoline.

(5) If the distribution percentage is greater than sixty-five percent but not greater than seventy percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty and seven-tenths cents for motor fuel other than ethanol blended gasoline.

(6) If the distribution percentage is greater than seventy percent but not greater than seventy-five percent, the rate shall be nineteen cents for ethanol blended gasoline and twenty-one cents for motor fuel other than ethanol blended gasoline.

(7) If the distribution percentage is greater than seventy-five percent but not greater than eighty percent, the rate shall be nineteen and three-tenths cents for ethanol blended gasoline and twenty and eight-tenths cents for motor fuel other than ethanol blended gasoline.

(8) If the distribution percentage is greater than eighty percent but not greater than eighty-five percent, the rate shall be nineteen and five-tenths cents for ethanol blended gasoline and twenty and seven-tenths cents for motor fuel other than ethanol blended gasoline.

(9) If the distribution percentage is greater than eighty-five percent but not greater than ninety percent, the rate shall be nineteen and seven-tenths cents for ethanol blended gasoline and twenty and four-tenths cents for motor fuel other than ethanol blended gasoline.

(10) If the distribution percentage is greater than ninety percent but not greater than ninety-five percent, the rate shall be nineteen and nine-tenths cents for ethanol blended gasoline and twenty and one-tenth cents for motor fuel other than ethanol blended gasoline.

(11) If the distribution percentage is greater than ninety-five percent, the rate shall be twenty cents for ethanol blended gasoline and twenty cents for motor fuel other than ethanol blended gasoline.

1A. Except as otherwise provided in this section and in this division, after June 30, 2007, an excise tax of twenty cents is imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

Sec. 5. Section 452A.3, subsection 2, paragraph b, Code 2001, is amended by striking the paragraph.

Sec. 6. APPLICABILITY.

1. Notwithstanding section 452A.3, as amended in this Act, the excise tax imposed upon motor vehicle fuel, including ethanol blended gasoline, as provided in that section shall be the same as provided in that section on June 30, 2001, until July 1, 2002. The excise tax for the period beginning July 1, 2002, and ending June 30, 2003, and for each subsequent period, shall be based on a determination made by the department of revenue and finance as provided in section 452A.3, subsection 1.

2. The ethanol blended gasoline tax credits provided in sections 422.11C and 422.33 apply to tax years beginning on or after January 1, 2002. The department of revenue and finance shall perform functions, prior to the beginning of that tax year, necessary in order to implement the tax credits.

Approved May 7, 2001

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## CHAPTER 124

### SOLID WASTE — TONNAGE FEES — SOLID WASTE ACCOUNT MONEYS

H.F. 722

**AN ACT** relating to tonnage fees and moneys in the solid waste account of the groundwater protection fund, and providing an effective date.

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

Section 1. Section 455B.310, subsection 4, Code 2001, is amended to read as follows:

4. ~~Ninety-five~~ If a planning area achieves the fifty percent waste reduction goal provided in section 455D.3, ninety-five cents of the tonnage fee shall be retained by a city, county, or public or private agency and. If the fifty percent waste reduction goal has not been met, one dollar and twenty cents of the tonnage fee shall be retained by a city, county, or public or private agency. Moneys retained by a city, county, or public or private agency shall be used as follows:

a. To meet comprehensive planning requirements of section 455B.306, the development of a closure or postclosure plan, the development of a plan for the control and treatment of leachate including the preparation of facility plans and detailed plans and specifications, and the preparation of a financial plan.

b. ~~Forty-five~~ If a planning area achieves the fifty percent waste reduction goal provided in

section 455D.3, forty-five cents of the retained funds shall be used for implementing waste volume reduction and recycling requirements of comprehensive plans filed under section 455B.306. If the fifty percent waste reduction goal has not been met, seventy cents of the retained funds shall be used for implementing waste volume reduction and recycling requirements of comprehensive plans filed under section 455B.306. The funds shall be distributed to a city, county, or public agency served by the sanitary disposal project. Fees collected by a private agency which provides for the final disposal of solid waste shall be remitted to the city, county, or public agency served by the sanitary disposal project. However, if a private agency is designated to develop and implement the comprehensive plan pursuant to section 455B.306, fees under this paragraph shall be retained by the private agency.

c. For other environmental protection activities.

d. Each sanitary landfill owner or operator shall submit a return to the department identifying the use of all fees retained under this section including the manner in which the fees were distributed. The return shall be submitted concurrently with the return required under subsection 7.

Sec. 2. Section 455D.3, subsection 3, paragraph a, unnumbered paragraph 2, Code 2001, is amended to read as follows:

If at any time the department determines that a planning area has met or exceeded the twenty-five percent goal, but has not met or exceeded the fifty percent goal, a planning area shall subtract fifty sixty cents from the total amount of the tonnage fee imposed pursuant to section 455B.310. If at any time the department determines that a planning area has met or exceeded the fifty percent goal, a planning area shall subtract fifty cents from the total amount of the tonnage fee imposed pursuant to section 455B.310. The reduction in tonnage fees pursuant to this paragraph shall be taken from that portion of the tonnage fees which would have been allocated for funding alternatives to landfills pursuant to section 455E.11, subsection 2, paragraph "a", subparagraph (1).

Sec. 3. Section 455E.11, subsection 2, paragraph a, subparagraph (1), unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~One dollar and seventy-five cents of~~ After the one dollar and fifty-five cents is allocated pursuant to subparagraph (2), the remaining moneys from the tonnage fee shall be used for funding alternatives to landfills and shall be allocated as follows:

Sec. 4. Section 455E.11, subsection 2, paragraph a, subparagraph (1), subparagraph subdivision (b), Code 2001, is amended to read as follows:

(b) ~~Sixty-five~~ One hundred sixty-five thousand dollars to the waste management assistance division of the department to be used for the by-products and waste search service at the university of northern Iowa.

Sec. 5. Section 455E.11, subsection 2, paragraph a, subparagraph (2), unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~The remaining one~~ One dollar and fifty-five cents shall be used as follows:

Sec. 6. This Act, with the exception of section 4 of this Act, shall take effect July 1, 2002.

Approved May 7, 2001

**CHAPTER 125****HEALTH INSURANCE AND HEALTH INSURANCE  
ASSOCIATIONS — MISCELLANEOUS CHANGES***H.F. 733*

**AN ACT** relating to the Iowa individual health benefit reinsurance association and the Iowa comprehensive health insurance association, by changing the board of directors, membership, and assessment related to the associations, and making changes related to adjustments in the coverage of basic and standard health benefit plans.

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

Section 1. Section 513B.14, subsection 1, Code 2001, is amended to read as follows:

1. The commissioner shall adopt by rule the form and level of coverage of the basic health benefit plan and the standard health benefit plan to be made available by a small employer carrier pursuant to section 513B.10, but which shall be appropriately adjusted at least every three years to reflect the current state of the small group market. The commissioner's rules shall include the benefit levels, cost-sharing levels, exclusions, and limitations for the basic health benefit plan and the standard health benefit plan, and shall define for purposes of this subchapter, a basic health benefit plan and a standard health benefit plan which contain benefit and cost-sharing levels that are consistent with the basic method of operation and the benefit plans of health maintenance organizations, including any restrictions imposed by federal law.

Sec. 2. Section 513C.5, subsection 2, Code 2001, is amended to read as follows:

2. Notwithstanding subsection 1, the commissioner, with the concurrence of the board of the Iowa individual health benefit reinsurance association established ~~in section 513C.10 under chapter 514E,~~ may by order reduce or eliminate the allowed rating bands provided under subsection 1, paragraphs "a", "b", "c", and "e", or otherwise limit or eliminate the use of experience rating. ~~The commissioner shall also develop a recommendation for the elimination of age as a rating characteristic, and shall submit such recommendation by January 8, 1996.~~

Sec. 3. Section 513C.8, Code 2001, is amended to read as follows:

513C.8 HEALTH BENEFIT PLAN STANDARDS.

The commissioner shall adopt by rule the form and level of coverage of the basic health benefit plan and the standard health benefit plan for the individual market which shall provide benefits substantially similar to those as provided for under chapter 513B with respect to small group coverage, but which shall be appropriately adjusted at least every three years to reflect the current state of the individual market.

Sec. 4. Section 513C.10, subsection 1, Code 2001, is amended to read as follows:

1. ~~A nonprofit corporation is established to be known as the~~ The Iowa individual health benefit reinsurance association is established as a nonprofit corporation.

a. All persons that provide health benefit plans in this state including insurers providing accident and sickness insurance under chapter 509, 514, or 514A; fraternal benefit societies providing hospital, medical, or nursing benefits under chapter 512B; and health maintenance organizations, organized delivery systems, and all other entities providing health insurance or health benefits subject to state insurance regulation shall be members of the association.

b. The association shall be incorporated under chapter 504A, shall operate under a plan of operation established and approved pursuant to chapter 504A, and shall exercise its powers through a the board of directors established under ~~this section~~ chapter 514E.

Sec. 5. Section 513C.10, subsections 2 through 5, Code 2001, are amended by striking the subsections.

Sec. 6. Section 513C.10, subsection 6, Code 2001, is amended to read as follows:

6. Rates for basic and standard coverages as provided in this chapter shall be determined by each carrier or organized delivery system as the product of a basic and standard factor and the lowest rate available for issuance by that carrier or organized delivery system adjusted for rating characteristics and benefits. Basic and standard factors shall be established annually by the Iowa individual health benefit reinsurance association board with the approval of the commissioner. Multiple basic and standard factors for a distinct grouping of basic and standard policies may be established. A basic and standard factor is limited to a minimum value defined as the ratio of the average of the lowest rate available for issuance and the maximum rate allowable by law divided by the lowest rate available for issuance. A basic and standard factor is limited to a maximum value defined as the ratio of the maximum rate allowable by law divided by the lowest rate available for issuance. The maximum rate allowable by law and the lowest rate available for issuance is determined based on the rate restrictions under this chapter. For policies written after January 1, 2002, rates for the basic and standard coverages as provided in this chapter shall be calculated using the basic and standard factors and shall be no lower than the maximum rate allowable by law. However, to maintain assessable loss assessments at or below one percent of total health insurance premiums or payments as determined in accordance with subsection 10, the Iowa individual health benefit reinsurance association board with the approval of the commissioner may increase the value for any basic and standard factor greater than the maximum value ~~and~~.

The Iowa individual health benefit reinsurance association may, with the approval of the commissioner, may increase cost sharing provisions including, but not limited to, basic and standard plan deductibles, coinsurance, or copayments.

Sec. 7. Section 514E.2, subsections 1 and 2, Code 2001, are amended to read as follows:

1. ~~There is established a nonprofit corporation known as the~~ The Iowa comprehensive health insurance association which is established as a nonprofit corporation. The association shall assure that health insurance, as limited by sections 514E.4 and 514E.5, is made available to each eligible Iowa resident and each federally eligible individual applying to the association for coverage. The association shall also be responsible for administering the Iowa individual health benefit reinsurance association pursuant to all of the terms and conditions contained in chapter 513C.

a. All carriers as defined in section 514E.1, subsection 3, and all organized delivery systems licensed by the director of public health providing health insurance or health care services in Iowa shall be members of the association.

b. The association shall operate under a plan of operation established and approved under subsection 3 and shall exercise its powers through a board of directors established under this section.

2. The board of directors of the association shall consist of ~~four of all of the following:~~

a. Two members who shall be representatives of the two largest domestic carriers of individual health insurance in the state as of the calendar year ending December 31, 2000, based on earned premium standards.

b. Three members who shall be representatives of the three largest carriers of health insurance in the state, based on earned premium standards, excluding Medicare supplement coverage premiums, that are not otherwise represented.

c. Two members selected by the members of the association, two one of whom shall be representatives from corporations a representative from a corporation operating pursuant to chapter 514 on July 1, 1989, or any successors successor in interest, and two one of whom shall be representatives of a representative of an organized delivery systems or insurers system or an insurer providing coverage pursuant to chapter 509 or 514A; four.

d. Four public members selected by the governor; the.

e. The commissioner or the commissioner's designee from the division of insurance; and two.

f. Two members of the general assembly, one of whom shall be appointed by the speaker of the house and one of whom shall be appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, who shall be ex officio, ~~and~~ nonvoting members.

PARAGRAPH DIVIDED. The composition of the board of directors shall be in compliance with sections 69.16 and 69.16A. The governor's appointees shall be chosen from a broad cross-section of the residents of this state.

Members of the board may be reimbursed from the moneys of the association for expenses incurred by them as members, but shall not be otherwise compensated by the association for their services.

Approved May 7, 2001

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## CHAPTER 126

### SCHOOL FINANCE — MISCELLANEOUS CHANGES

S.F. 203

**AN ACT** relating to certain school finance provisions and providing an effective date.

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

Section 1. Section 257.3, subsection 2, Code 2001, is amended to read as follows:

2. **TAX FOR REORGANIZED AND DISSOLVED DISTRICTS.** Notwithstanding subsection 1, a reorganized school district shall cause a foundation property tax of four dollars and forty cents per thousand dollars of assessed valuation to be levied on all taxable property which, in the year preceding a reorganization, was within a school district affected by the reorganization as defined in section 275.1, or in the year preceding a dissolution was a part of a school district that dissolved if the dissolution proposal has been approved by the director of the department of education pursuant to section 275.55. In the year preceding the reorganization or dissolution, the school district affected by the reorganization or the school district that dissolved must have had a certified enrollment of fewer than six hundred in order for the four-dollar-and-forty-cent levy to apply. In succeeding school years, the foundation property tax levy on that portion shall be increased ~~twenty cents per year until it reaches the rate of~~ to the rate of four dollars and ninety cents per thousand dollars of assessed valuation the first succeeding year, five dollars and fifteen cents per thousand dollars of assessed valuation the second succeeding year, and five dollars and forty cents per thousand dollars of assessed valuation the third succeeding year and each year thereafter.

For purposes of this section, a reorganized school district is one which ~~absorbed~~ absorbs at least thirty percent of the enrollment of the school district affected by a reorganization or dissolved during a dissolution and in which action to bring about a reorganization or dissolution ~~was initiated by a vote of the board of directors or jointly by the affected boards of directors prior to November 30, 1990, and the reorganization or dissolution takes~~ is initiated by a vote of the board of directors or jointly by the affected boards of directors to take effect on or after July 1, 1991 2002, and on or before July 1, 1993 2006. Each district which initiated, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution ~~by November 30, 1990 to take effect on or after July 1, 2002, and on or before July 1, 2006,~~ shall certify the date and the nature of the action taken

to the department of education by ~~September~~ January 1, 1991 of the year in which the reorganization or dissolution takes effect.

~~A reorganized school district which meets the requirements of this section for reduced property tax rates, but failed to vote on reorganization or dissolution prior to November 30, 1990, and failed to certify such action to the department of education by September 1, 1991, shall cause to be levied a foundation property tax of four dollars and sixty cents per thousand dollars of assessed valuation on all eligible taxable property pursuant to this section. In succeeding school years, the foundation property tax levy on that portion shall be increased twenty cents per year until it reaches the rate of five dollars and forty cents per thousand dollars of assessed valuation.~~

~~The reduced property tax rates of reorganized school districts that met the requirements of section 442.2, Code 1991, prior to July 1, 1991, shall continue to increase as provided in that section until they reach five dollars and forty cents.~~

Sec. 2. Section 257.3, subsection 3, Code 2001, is amended by striking the subsection.

Sec. 3. Section 257.3, subsection 4, Code 2001, is amended to read as follows:

4. RAILWAY CORPORATIONS. For purposes of section 257.1, the "amount per pupil of foundation property tax" does not include the tax levied under subsection 1, ~~2~~, or ~~3~~ 2 on the property of a railway corporation, or on its trustee if the corporation has been declared bankrupt or is in bankruptcy proceedings.

Sec. 4. Section 257.4, subsection 3, Code 2001, is amended to read as follows:

3. APPLICATION OF TAX. No later than June ~~1~~ 15 of each year, the department of management shall notify the county auditor of each county the amount, in dollars and cents per thousand dollars of assessed value, of the additional property tax levy in each school district in the county. A county auditor shall spread the additional property tax levy for each school district in the county over all taxable property in the district.

Sec. 5. Section 257.11, subsection 2, paragraph c, Code 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

c. Pupils attending class for all or a substantial portion of a school day pursuant to a whole grade sharing agreement executed under sections 282.10 through 282.12 shall be eligible for supplementary weighting pursuant to this subsection as follows:

(1) A school district which was participating in a whole grade sharing arrangement during the budget year beginning July 1, 2001, and which adopts a resolution jointly with the other affected boards to study the question of undergoing a reorganization or dissolution to take effect on or before July 1, 2006, shall receive a weighting of one-tenth of the percentage of the pupil's school day during which the pupil attends classes in another district, attends classes taught by a teacher who is jointly employed under section 280.15, or attends classes taught by a teacher who is employed by another school district. A district shall be eligible for supplementary weighting pursuant to this subparagraph for a maximum of two years. Receipt of supplementary weighting for a second year shall be conditioned upon submission of information resulting from the study to the school budget review committee indicating progress toward the objective of reorganization on or before July 1, 2006.

(2) A school district which was not participating in a whole grade sharing arrangement during the budget year beginning July 1, 2001, which executes a whole grade sharing agreement pursuant to sections 282.10 through 282.12 for the budget year beginning July 1, 2003, and which adopts a resolution jointly with the other affected boards to study the question of undergoing a reorganization or dissolution to take effect on or before July 1, 2006, shall receive a weighting of one-tenth of the percentage of the pupil's school day during which the pupil attends classes in another district, attends classes taught by a teacher who is jointly employed under section 280.15, or attends classes taught by a teacher who is employed by another school district. A district shall be eligible for supplementary weighting pursuant to this subparagraph for a maximum of three years. Receipt of supplementary weighting for a

second and third year shall be conditioned upon submission of information resulting from the study to the school budget review committee indicating progress toward the objective of reorganization on or before July 1, 2006.

Sec. 6. Section 257.11, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 4A. REGIONAL ACADEMIES.

a. For the school budget year beginning July 1, 2002, and succeeding budget years, in order to provide additional funds for school districts in which a regional academy is located, a supplementary weighting plan for determining enrollment is adopted.

b. A school district which establishes a regional academy shall be eligible to assign its resident pupils attending classes at the academy a weighting of one-tenth of the percentage of the pupil's school day during which the pupil attends classes at the regional academy. For the purposes of this subsection, "regional academy" means an educational institution established by a school district to which multiple schools send pupils in grades seven through twelve, and may include a virtual academy. A regional academy shall include in its curriculum advanced-level courses and may include in its curriculum vocational-technical programs. The maximum amount of additional weighting for which a school district establishing a regional academy shall be eligible is an amount corresponding to fifteen additional pupils.

Sec. 7. NEW SECTION. 257.11A SUPPLEMENTARY WEIGHTING AND SCHOOL REORGANIZATION.

1. In determining weighted enrollment under section 257.6, if the board of directors of a school district has approved a contract for sharing pursuant to section 257.11 and the school district has approved an action to bring about a reorganization to take effect on and after July 1, 2002, and on or before July 1, 2006, the reorganized school district shall include, for a period of three years following the effective date of the reorganization, additional pupils added by the application of the supplementary weighting plan, equal to the pupils added by the application of the supplementary weighting plan in the year preceding the reorganization. For the purposes of this paragraph,<sup>1</sup> the weighted enrollment for the period of three years following the effective date of reorganization shall include the supplementary weighting in the base year used for determining the combined district cost for the first year of the reorganization. However, the weighting shall be reduced by the supplementary weighting added for a pupil whose residency is not within the reorganized district.

2. For purposes of this section, a reorganized district is one in which the reorganization was approved in an election pursuant to sections 275.18 and 275.20 and takes effect on or after July 1, 2002, and on or before July 1, 2006. Each district which initiates, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution to take effect on or after July 1, 2002, and on or before July 1, 2006, shall certify the date and the nature of the action taken to the department of education by January 1 of the year in which the reorganization or dissolution takes effect.

3. Notwithstanding subsection 1, a school district which was participating in a whole grade sharing arrangement during the budget year beginning July 1, 2001, and which received a maximum of two years of supplementary weighting pursuant to section 257.11, subsection 2, paragraph "c", shall include additional pupils added by the application of the supplementary weighting plan, equal to the pupils added by the application of the supplementary weighting plan in the year preceding the reorganization, for a period of four years following the effective date of the reorganization.

4. A school district shall be eligible for a combined maximum total of six years of supplementary weighting under the provisions of this section and section 257.11, subsection 2, paragraph "c".

Sec. 8. Section 257.13, subsections 1 and 2, Code 2001, are amended to read as follows:

1. For the school budget year beginning July 1, ~~2000~~ 2001, and succeeding budget years, if a district's actual enrollment for the budget year, determined under section 257.6, is greater

<sup>1</sup> Subsection probably intended



than its budget enrollment for the budget year, the district shall be eligible to receive an on-time funding budget adjustment. The adjustment shall be in an amount equal to ~~fifty percent~~ of the difference between the actual enrollment for the budget year and the budget enrollment for the budget year, multiplied by the district cost per pupil.

2. The board of directors of a school district that wishes to receive an on-time funding budget adjustment shall adopt a resolution to receive the adjustment and notify the school budget review committee by November 1, ~~2000~~ annually. The school budget review committee shall establish a modified allowable growth in an amount determined pursuant to subsection 1.

Sec. 9. Section 257.14, subsection 1, Code 2001, is amended to read as follows:

1. For the budget year commencing July 1, ~~2000~~ 2001, if the department of management determines that the regular program district cost of a school district for a budget year is less than the total of the regular program district cost plus any adjustment added under this section for the base year for that school district, the school district shall be eligible to receive a budget adjustment for that district for that budget year up to an amount equal to the difference. The board of directors of a school district that wishes to receive a budget adjustment pursuant to this subsection shall, notwithstanding the public notice and hearing provisions of chapter 24 or any other provision to the contrary, within thirty days following ~~April 6, 2000~~ the effective date of this Act, adopt a resolution to receive the budget adjustment and immediately notify the department of management of the adoption of the resolution and the amount of the budget adjustment to be received.

Sec. 10. Section 257.14, subsection 2, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

2. For the budget years commencing July 1, 2002, and July 1, 2003, if the department of management determines that the regular program district cost of a school district for a budget year is less than the total of the regular program district cost plus any adjustment added under this section for the base year for that school district, the school district shall be eligible to receive a budget adjustment for that district for that budget year up to an amount equal to the difference. The board of directors of a school district that wishes to receive a budget adjustment pursuant to this subsection shall adopt a resolution to receive the budget adjustment and shall, by April 1, annually, notify the department of management of the adoption of the resolution and the amount of the budget adjustment to be received.

Sec. 11. Section 257.14, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. For the budget year commencing July 1, 2004, and succeeding budget years, if the department of management determines that the regular program district cost of a school district for a budget year is less than one hundred one percent of the regular program district cost for the base year for that school district, a district shall be eligible for a budget adjustment corresponding to the following schedule:

a. For the budget year commencing July 1, 2004, the greater of the difference between the regular program district cost for the budget year and one hundred one percent of the regular program district cost for the base year, or ninety percent of the amount by which the budget guarantee as calculated for the budget year beginning July 1, 2003, exceeds the adjusted guarantee amount. For purposes of this paragraph, the "adjusted guarantee amount" means the amount which would be applicable for the budget year beginning July 1, 2004, if the budget guarantee were determined for that budget year as calculated for the budget year beginning July 1, 2003.

b. For the budget year commencing July 1, 2005, the greater of the difference between the regular program district cost for the budget year and one hundred one percent of the regular program district cost for the base year, or eighty percent of the amount by which the budget guarantee as calculated for the budget year beginning July 1, 2003, exceeds the adjusted guarantee amount. For purposes of this paragraph, the "adjusted guarantee amount" means

the amount which would be applicable for the budget year beginning July 1, 2005, if the budget guarantee were determined for that budget year as calculated for the budget year beginning July 1, 2003.

c. For the budget year commencing July 1, 2006, the greater of the difference between the regular program district cost for the budget year and one hundred one percent of the regular program district cost for the base year, or seventy percent of the amount by which the budget guarantee as calculated for the budget year beginning July 1, 2003, exceeds the adjusted guarantee amount. For purposes of this paragraph, the "adjusted guarantee amount" means the amount which would be applicable for the budget year beginning July 1, 2006, if the budget guarantee were determined for that budget year as calculated for the budget year beginning July 1, 2003.

d. For the budget year commencing July 1, 2007, the greater of the difference between the regular program district cost for the budget year and one hundred one percent of the regular program district cost for the base year, or sixty percent of the amount by which the budget guarantee as calculated for the budget year beginning July 1, 2003, exceeds the adjusted guarantee amount. For purposes of this paragraph, the "adjusted guarantee amount" means the amount which would be applicable for the budget year beginning July 1, 2007, if the budget guarantee were determined for that budget year as calculated for the budget year beginning July 1, 2003.

e. For the budget year commencing July 1, 2008, the greater of the difference between the regular program district cost for the budget year and one hundred one percent of the regular program district cost for the base year, or fifty percent of the amount by which the budget guarantee as calculated for the budget year beginning July 1, 2003, exceeds the adjusted guarantee amount. For purposes of this paragraph, the "adjusted guarantee amount" means the amount which would be applicable for the budget year beginning July 1, 2008, if the budget guarantee were determined for that budget year as calculated for the budget year beginning July 1, 2003.

f. For the budget year commencing July 1, 2009, the greater of the difference between the regular program district cost for the budget year and one hundred one percent of the regular program district cost for the base year, or forty percent of the amount by which the budget guarantee as calculated for the budget year beginning July 1, 2003, exceeds the adjusted guarantee amount. For purposes of this paragraph, the "adjusted guarantee amount" means the amount which would be applicable for the budget year beginning July 1, 2009, if the budget guarantee were determined for that budget year as calculated for the budget year beginning July 1, 2003.

g. For the budget year commencing July 1, 2010, the greater of the difference between the regular program district cost for the budget year and one hundred one percent of the regular program district cost for the base year, or thirty percent of the amount by which the budget guarantee as calculated for the budget year beginning July 1, 2003, exceeds the adjusted guarantee amount. For purposes of this paragraph, the "adjusted guarantee amount" means the amount which would be applicable for the budget year beginning July 1, 2010, if the budget guarantee were determined for that budget year as calculated for the budget year beginning July 1, 2003.

h. For the budget year commencing July 1, 2011, the greater of the difference between the regular program district cost for the budget year and one hundred one percent of the regular program district cost for the base year, or twenty percent of the amount by which the budget guarantee as calculated for the budget year beginning July 1, 2003, exceeds the adjusted guarantee amount. For purposes of this paragraph, the "adjusted guarantee amount" means the amount which would be applicable for the budget year beginning July 1, 2011, if the budget guarantee were determined for that budget year as calculated for the budget year beginning July 1, 2003.

i. For the budget year commencing July 1, 2012, the greater of the difference between the regular program district cost for the budget year and one hundred one percent of the regular

program district cost for the base year, or ten percent of the amount by which the budget guarantee as calculated for the budget year beginning July 1, 2003, exceeds the adjusted guarantee amount. For purposes of this paragraph, the "adjusted guarantee amount" means the amount which would be applicable for the budget year beginning July 1, 2012, if the budget guarantee were determined for that budget year as calculated for the budget year beginning July 1, 2003.

j. For the budget year commencing July 1, 2013, and each budget year thereafter, the difference between the regular program district cost for the budget year and one hundred one percent of the regular program district cost for the base year.

For the purposes of this subsection, a school district shall be eligible to apply the eighty, seventy, sixty, fifty, forty, thirty, twenty, and ten percent provisions in paragraphs "b" through "i", only if the school district received a budget adjustment for the budget year beginning July 1, 2004, based on the ninety percent provision in paragraph "a".

The board of directors of a school district that wishes to receive a budget adjustment pursuant to this subsection shall adopt a resolution to receive the budget adjustment and shall, by April 1, annually, notify the department of management of the adoption of the resolution and the amount of the budget adjustment to be received.

Sec. 12. EFFECTIVE DATE. Sections 4 and 9 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 9, 2001

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## CHAPTER 127

### INTERNAL REVENUE CODE REFERENCES AND INCOME TAX PROVISIONS

*S.F. 140*

**AN ACT** updating the Iowa Code references to the Internal Revenue Code, increasing the minimum filing income requirement for dependents, increasing the estimated tax payment standard for assessing a penalty for corporations and financial institutions, and providing retroactive applicability dates and an effective date.

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

Section 1. Section 15.335, subsection 4, Code 2001, is amended to read as follows:

4. For purposes of this section, "base amount", "basic research payment", and "qualified research expense" mean the same as defined for the federal credit for increasing research activities under section 41 of the Internal Revenue Code, except that for the alternative incremental credit such amounts are for research conducted within this state. For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2000~~ 2001.

Sec. 2. Section 15A.9, subsection 8, paragraph e, Code 2001, is amended to read as follows:

e. For the purposes of this subsection, "base amount", "basic research payment", and "qualified research expense" mean the same as defined for the federal credit for increasing research activities under section 41 of the Internal Revenue Code, except that for the alternative incremental credit such amounts are for research conducted within this state within the zone. For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2000~~ 2001.

Sec. 3. Section 422.3, subsection 5, Code 2001, is amended to read as follows:

5. "Internal Revenue Code" means the Internal Revenue Code of 1954, prior to the date of its redesignation as the Internal Revenue Code of 1986 by the Tax Reform Act of 1986, or means the Internal Revenue Code of 1986 as amended to and including January 1, ~~2000~~ 2001, whichever is applicable.

Sec. 4. Section 422.7, subsection 6, Code 2001, is amended by striking the subsection.

Sec. 5. Section 422.7, Code 2001, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 36. Notwithstanding the method for computing income from an installment sale under section 453 of the Internal Revenue Code, as defined in section 422.3, the method to be used in computing income from an installment sale shall be the method under section 453 of the Internal Revenue Code, as amended up to and including January 1, 2000. A taxpayer affected by this subsection shall make adjustments in the adjusted gross income pursuant to rules adopted by the director.

Sec. 6. Section 422.10, subsection 3, Code 2001, is amended to read as follows:

3. For purposes of this section, "base amount", "basic research payment", and "qualified research expense" mean the same as defined for the federal credit for increasing research activities under section 41 of the Internal Revenue Code, except that for the alternative incremental credit such amounts are for research conducted within this state. For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2000~~ 2001.

Sec. 7. Section 422.13, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. The individual is claimed as a dependent on another person's return and has net income of ~~four~~ five thousand dollars or more for the tax year from sources taxable under this division.

Sec. 8. Section 422.33, subsection 5, paragraph d, Code 2001, is amended to read as follows:

d. For purposes of this subsection, "base amount", "basic research payment", and "qualified research expense" mean the same as defined for the federal credit for increasing research activities under section 41 of the Internal Revenue Code, except that for the alternative incremental credit such amounts are for research conducted within this state. For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2000~~ 2001.

Sec. 9. **RETROACTIVE AND APPLICABILITY DATES.**

1. Sections 1 through 6 and 8 of this Act apply retroactively to January 1, 2000, for tax years beginning on or after that date.

2. Section 7 of this Act applies retroactively to January 1, 2001, for tax years beginning on or after that date.

Sec. 10. **EFFECTIVE DATE.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 16, 2001

## CHAPTER 128

### FAMILY INVESTMENT PROGRAM — POSTSECONDARY EDUCATION ASSISTANCE

*S.F. 198*

**AN ACT** relating to family investment program requirements regarding the time period allowed for supported postsecondary education assistance and including an applicability provision.

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

Section 1. Section 239B.8, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION. 7. POSTSECONDARY EDUCATION.** For family investment agreements entered into on or after July 1, 1996, the maximum allowable time period for supported postsecondary education is limited to a total of twenty-four months. The twenty-four-month allowance shall only be available for a period of forty-eight consecutive months.

Sec. 2. **AGREEMENTS IN EFFECT.** This Act applies prospectively to family investment agreements entered into on or after July 1, 2001, and retrospectively to family investment agreements containing postsecondary education provisions in effect on July 1, 2001, that were entered into before that date. The department of human services shall amend those agreements subject to retrospective applicability as necessary to apply the twenty-four-month maximum allowance within a period of forty-eight consecutive months as authorized by this Act.

Approved May 16, 2001

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## CHAPTER 129

### DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP — MISCELLANEOUS CHANGES

*S.F. 211*

**AN ACT** relating to the powers and duties of the department of agriculture and land stewardship.

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

Section 1. Section 7A.3, subsection 3, Code 2001, is amended by striking the subsection.

Sec. 2. Section 99D.22, subsection 1, Code 2001, is amended to read as follows:

1. A licensee shall hold at least one race on each racing day limited to Iowa-foaled horses or Iowa-whelped dogs as defined by the department of agriculture and land stewardship using standards consistent with this section. However, if sufficient competition cannot be had among that class of horses or dogs on any day, another race for the day may be substituted. A sum equal to twelve percent of the purse won by an Iowa-foaled horse or Iowa-whelped dog shall be used to promote the horse and dog breeding industries. The twelve percent shall be withheld by the licensee from the breakage and shall be paid at the end of the race meeting to the state department of agriculture and land stewardship which in turn shall deposit it in a special fund to be known as the Iowa horse and dog breeders fund ~~and~~

~~pay it. The department shall pay the amount deposited in the fund that is withheld from the purse won by an Iowa-foaled horse to the breeder of the winning Iowa-foaled horse by December 31 of each calendar year to the breeder of the winning Iowa-foaled horse or Iowa-whelped dog. The department shall pay the amount deposited in the fund that is withheld from the purse won by an Iowa-whelped dog to the breeder of the winning Iowa-whelped dog by March 31 of each calendar year.~~ For the purposes of this section, the breeder of a ~~thoroughbred~~ horse shall be considered to be the owner of the brood mare at the time the foal is dropped. ~~The breeder of a quarter horse or standardbred horse shall be considered to be the owner of the mare at the time of breeding.~~

Sec. 3. Section 192.101A, unnumbered paragraph 1, Code 2001, is amended to read as follows:

As used in this chapter, all terms shall have the same meaning as defined in the "Grade 'A' Pasteurized Milk Ordinance, ~~1995~~ 1999 Revision". However, notwithstanding the ordinance, the following definitions shall apply:

Sec. 4. Section 192.102, Code 2001, is amended to read as follows:

192.102 GRADE "A" PASTEURIZED MILK ORDINANCE.

The department shall adopt, by rule, the "Grade 'A' Pasteurized Milk Ordinance, ~~1995~~ 1999 Revision", including a subsequent revision of the ordinance. If the ordinance specifies that compliance with a provision of the ordinance's appendices is mandatory, the department shall also adopt that provision. The department shall not amend the ordinance, unless the department explains each amendment and reasons for the amendment in the Iowa administrative bulletin when the rules are required to be published pursuant to chapter 17A. The department shall administer this chapter consistent with the provisions of the ordinance.

Sec. 5. Section 192.110, subsection 1, Code 2001, is amended to read as follows:

1. The person has a pasteurized milk and milk products sanitation compliance rating of ninety percent or more as calculated according to the rating system as contained in the federal public health service publications, "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers ~~1995~~ 1999" and "Method of Making Sanitation Ratings of Milk Supplies, ~~1995~~ 1999 Revision". The applicable provisions of these publications are incorporated into this section by this reference. A copy of each publication shall be on file with the department or in the office of the person subject to an inspection contract as provided in section 192.108.

Sec. 6. Section 455E.11, subsection 1, unnumbered paragraph 3, Code 2001, is amended to read as follows:

The secretary of agriculture shall submit ~~with the report prepared pursuant to~~ on a biennial basis to the governor in the same manner as provided in section 7A.3. The report shall include a proposal for the use of groundwater protection fund moneys, and a report of the uses of the groundwater protection fund moneys appropriated in the two previous fiscal year years.

Sec. 7. Sections 159.10, 159.15, 159.30, and 159.37, Code 2001, are repealed.

Sec. 8. DIRECTIONS TO THE CODE EDITOR. The Code editor shall consolidate or eliminate the repeal, reserve, and transfer entries for 2001 Iowa Code sections 192.1 through 192.100, in order to enhance the readability of chapter 192. As part of consolidating or eliminating the entries, the Code editor shall provide directions to the reader that explain where historical information pertaining to the repeal, transfer, or reserving of those entries may be obtained.

Approved May 16, 2001

**CHAPTER 130****HUNTING AND FISHING VIOLATIONS — FINES**

S.F. 339

**AN ACT** relating to scheduled fines for hunting and fishing violations.

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

Section 1. Section 482.15, Code 2001, is amended to read as follows:  
482.15 PENALTIES.

A person who violates this chapter or a rule issued under this chapter is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 5, paragraph “e”. However, the scheduled fine specified in section 805.8, subsection 5, paragraph “e”, does not apply to a violation of this chapter or a rule for which another scheduled fine is specified in section 805.8, subsection 5.

Sec. 2. Section 483A.42, Code 2001, is amended to read as follows:  
483A.42 PENALTIES.

A person who violates this chapter is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 5, paragraph “e”. However, the scheduled fine specified in section 805.8, subsection 5, paragraph “e”, does not apply to a violation of this chapter for which another scheduled fine is specified in section 805.8, subsection 5.

Approved May 16, 2001

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**CHAPTER 131****CRIMES, REPORTS OF CRIMES, AND DEPARTMENT  
OF CORRECTIONS ACTIVITIES**

S.F. 346

**AN ACT** relating to the department of corrections by providing for the use of deadly force by correctional or peace officers, for the creation of a new criminal offense with a correctional impact, for submission of presentence investigation reports to the department, for establishing a training fund in the department, for inmate donations for victims’ travel expenses, and for transcription and recording of testimony for certain investigations conducted by the department of corrections.

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

Section 1. Section 232.68, subsection 2, Code 2001, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** g. The commission of bestiality in the presence of a minor under section 717C.1 by a person who resides in a home with a child, as a result of the acts or omissions of a person responsible for the care of the child.

Sec. 2. Section 704.8, Code 2001, is amended to read as follows:  
704.8 ESCAPE FROM PLACE OF CONFINEMENT.

A correctional officer or peace officer is justified in using reasonable force, including deadly force, which is necessary to prevent the escape of any person from any jail, penal institution, correctional facility, or similar place of confinement, or place of trial or other

judicial proceeding, or to prevent the escape from custody of any person who is being transported from any such place of confinement, trial or judicial proceeding to any other such place, except that deadly force may not be used to prevent the escape of one who the correctional officer or peace officer knows ~~or should know~~ is confined on a charge or conviction of any class of misdemeanor.

Sec. 3. NEW SECTION. 717C.1 BESTIALITY.

1. For purposes of this section:

a. "Animal" means any nonhuman vertebrate, either dead or alive.

b. "Sex act" means any sexual contact between a person and an animal by penetration of the penis into the vagina or anus, contact between the mouth and genitalia, or by contact between the genitalia of one and the genitalia or anus of the other.

2. A person who performs a sex act with an animal, is guilty of an aggravated misdemeanor.

3. Upon a conviction for a violation of this section, and in addition to any sentence authorized by law, the court shall require the person to submit to a psychological evaluation and treatment at the person's expense.

Sec. 4. Section 904.202, Code 2001, is amended to read as follows:

904.202 INTAKE AND CLASSIFICATION CENTER.

The director may provide facilities and personnel for a diagnostic intake and classification center. The work of the center shall include a scientific study of each inmate, the inmate's career and life history, the causes of the inmate's criminal acts and recommendations for the inmate's custody, care, training, employment, and counseling with a view to rehabilitation and to the protection of society. To facilitate the work of the center and to aid in the rehabilitation of the inmates, the trial judge, prosecuting attorney, and presentence investigators shall furnish the director ~~upon request~~ with any previously authorized presentence investigation report and a full statement of facts and circumstances attending the commission of the offense so far as known or believed by them. If the department develops and utilizes an inmate classification system, it must, within a reasonable time, present evidence from independent experts as to the effectiveness and validity of the classification system.

Sec. 5. NEW SECTION. 904.303A TRAINING FUND.

A training fund is established under the control of the department. The director shall provide training to all new officers or employees of the department free of charge. The department shall also offer in-service training which shall include classes for officers and employees in the areas of safety, first aid, emergency preparedness, and any other appropriate class determined by the director. Employees of a judicial district may also attend any in-service training offered by the department. The department may recover from the correctional institution or judicial district, the actual costs of planning and conducting the training classes, if an employee of the institution or judicial district attends an in-service training class. The costs that may be recovered by the department include the costs of course development, training materials, equipment and facility rental, instruction, and administration. Moneys received as reimbursement of the costs shall be deposited in the training fund for use in conducting future training classes. All cost reimbursement moneys, grants, or appropriations related to training shall be deposited in the fund. Notwithstanding section 8.33, moneys remaining in the training fund at the end of a fiscal year shall not revert to the general fund of the state. Notwithstanding section 12C.7, interest and earnings deposited in the training fund shall be credited to the training fund.

Sec. 6. Section 904.310, Code 2001, is amended to read as follows:

904.310 CANTEENS.

The director may maintain a canteen at an institution under the director's jurisdiction for the sale to persons confined in the institution of items such as toilet articles, candy, tobacco



products, notions, and other sundries, and may provide the necessary facilities, equipment, personnel, and merchandise for the canteen. The director shall specify the items to be sold in the canteen. The department may establish and maintain a permanent operating fund for each canteen. The fund shall consist of the receipts from the sale of commodities at the canteen and donations designated by inmates for reimbursement of victims' travel expenses. Any money in the fund over the amount needed to do normal business transactions, ~~and to reimburse any accounts which have subsidized the canteen fund, and to reimburse victims' travel expenses,~~ shall be considered profit. This money may remain in the canteen fund and be used for any purchase which the superintendent approves that will directly and collectively benefit the inmates of the institution or to reimburse victims' travel expenses.

Sec. 7. Section 904.405, Code 2001, is amended to read as follows:  
904.405 TRANSCRIPT OF TESTIMONY.

The director shall cause the testimony taken at the investigation to be ~~transcribed and recorded.~~ The recording of the testimony shall not be transcribed unless the testimony is part of a case that is appealed or an interested party requests a transcript and pays the cost of preparing the transcript. The recording of the testimony, or the transcription thereof, shall be filed and maintained in the director's office at the seat of government within ten days after the testimony is taken, or as soon as practicable, and when filed the testimony shall be open for the inspection of any person for at least five years from the date the testimony is taken or the date of a final decision in a case involving the testimony, whichever is later. However, a recording of testimony involving any employee of the department shall continue to be filed and maintained until the employee no longer is employed by the department.

Approved May 16, 2001

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## CHAPTER 132

### TRANSPORTATION — ADDITIONAL MISCELLANEOUS CHANGES

#### S.F. 350

**AN ACT** making transportation-related Code changes relating to temporary restricted permits and temporary entry and exit permits, commercial vehicle certificates of title, flat registration fees for older vehicles, railroad crossings, the content of driver's licenses and nonoperator's identification cards, child restraint devices in motor vehicles, hours of service, unsatisfied judgments, and bulk liquid transport, and providing an effective date.

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

Section 1. Section 321.1, subsection 20A, unnumbered paragraph 1, Code 2001, is amended to read as follows:

"Driver's license" means any license or permit issued to a person to operate a motor vehicle on the highways of this state, including but not limited to a temporary restricted or temporary license and an instruction, chauffeur's instruction, commercial driver's instruction, ~~temporary restricted,~~ or temporary permit.

Sec. 2. Section 321.20A, Code 2001, is amended to read as follows:  
321.20A CERTIFICATE OF TITLE — COMMERCIAL VEHICLES.

1. Notwithstanding other provisions of this chapter, the owner of a commercial vehicle

subject to the proportional registration provisions of chapter 326 may make application to the department or the appropriate county treasurer for a certificate of title. The application for certificate of title shall be made within thirty days of purchase or transfer and shall be accompanied by a ten dollar title fee and the appropriate use tax. The department or the county treasurer shall deliver the certificate of title to the owner if no security interest or encumbrance appears on the certificate or to the person holding the first security interest or encumbrance shown on the certificate of title.

~~2. A commercial vehicle~~ An owner of a commercial vehicle subject to the proportional registration provisions of chapter 326 who has a fleet of more than fifty commercial vehicles and who is issued a certificate of title under this section shall not be subject to registration fees until the commercial vehicle is driven or moved upon the highways. The registration fee due shall be prorated for the remaining unexpired months of the registration year. Ownership of the commercial vehicle shall not be transferred until registration fees have been paid to the department.

~~3. This section shall apply to owners with fleets of more than fifty commercial vehicles based in Iowa under the proportional registration provisions of chapter 326. The original certificate of title shall be delivered to the owner if no security interest or encumbrance appears on the certificate; otherwise, the certificate of title shall be delivered by the department to the person holding the first security interest or encumbrance as shown on the certificate of title.~~

Sec. 3. NEW SECTION. 321.56 REPAIR OF OUT-OF-STATE COMMERCIAL MOTOR VEHICLES — PERMITS.

1. The operator of a commercial motor vehicle which is not registered within the state as required pursuant to chapter 321 or 326 or which does not have an interstate fuel permit, as required under chapter 452A, may enter the state and travel to a commercial vehicle dealer or repair facility and exit the state under the following circumstances:

a. If the commercial motor vehicle is entering the state solely for the purposes of maintenance and repair to the commercial motor vehicle and is exiting the state after having completed vehicle maintenance or repair.

b. If the operator has obtained a temporary entry or exit permit from the department.

c. If the commercial motor vehicle is unladen.

2. The department shall provide a temporary entry and exit permit to a commercial motor vehicle operator which authorizes the operator to enter and exit the state as allowed under this section. Any operator of a commercial motor vehicle who has in the operator's possession the permit allowing entry into the state and exit from the state, shall not be charged with a registration violation under chapter 321 or 326 or with a motor vehicle fuel tax violation under chapter 452A, except for violations of section 452A.74A.

3. For purposes of this section "commercial motor vehicle" means as defined in section 321.1, subsection 11, paragraph "e", subparagraph (2).

Sec. 4. Section 321.113, Code 2001, is amended to read as follows:

321.113 AUTOMATIC REDUCTION.

1. The registration fee for a motor vehicle shall not be automatically reduced under this section unless the registration fee is based on the value and weight of the motor vehicle as provided in section 321.109, subsection 1.

~~2. After~~ If a motor vehicle is more than five model years old, ~~that the~~ the part of the registration fee ~~which that~~ is based on the value of the vehicle shall be:

~~Seventy-five~~ seventy-five percent of the rate as fixed when the motor vehicle was new;

~~3. After~~ If a motor vehicle is more than six model years old, the part of the registration fee that is based on the value of the vehicle shall be fifty percent; of the rate as fixed when the motor vehicle was new.

~~After a motor vehicle is more than eight model years old, that part of the registration fee based on the value of the vehicle shall be ten percent. Where the ninth registration fee for a~~

~~motor vehicle has been computed and fixed by the department prior to July 4, 1949, there shall be added to the registration fee, in lieu of the ten percent provided for herein, one dollar if such registration fee has been computed and fixed at fifteen dollars or less and two dollars if the registration fee has been computed and fixed at more than fifteen dollars.~~

4. If a 1994 model year or newer motor vehicle is nine model years old or older the registration fee is thirty-five dollars. For purposes of determining the portion of the registration fee under this subsection that is based upon the value of the motor vehicle, sixty percent of the registration fee is attributable to the value of the vehicle.

5. a. If a 1993 model year or older motor vehicle has been titled in the same person's name since the vehicle was new or the title to the vehicle was transferred prior to January 1, 2002, the part of the registration fee that is based on the value of the vehicle shall be ten percent of the rate as fixed when the motor vehicle was new.

b. If the title of a 1993<sup>1</sup> or older motor vehicle is transferred to a new owner or if such a motor vehicle is brought into the state on or after January 1, 2002, the registration fee shall not be based on the weight and list price of the motor vehicle, but shall be as follows:

- (1) For a motor vehicle that is model year 1969 or older:  
..... \$ 16.00
- (2) For a motor vehicle that is model year 1970 through 1989:  
..... \$ 23.00
- (3) For a motor vehicle that is model year 1990 through 1993:  
..... \$ 27.00

For purposes of determining the portion of the registration fee under this paragraph "b" that is based upon the value of the motor vehicle, sixty percent of the registration fee is attributable to the value of the vehicle.

Sec. 5. Section 321.189, subsection 6, Code 2001, is amended to read as follows:

6. LICENSES ISSUED TO PERSONS UNDER AGE TWENTY-ONE. A driver's license issued to a person under eighteen years of age shall ~~be identical in form to contain the same information~~ as any other driver's license except that the words "under eighteen" shall appear prominently on the face of the license. A driver's license issued to a person eighteen years of age or older but less than twenty-one years of age shall ~~be identical in form to contain the same information as~~ any other driver's license except that the words "under twenty-one" shall appear prominently on the face of the license. Upon attaining the age of eighteen or upon attaining the age of twenty-one, and upon payment of a one dollar fee, the person shall be entitled to a new driver's license or nonoperator's identification card for the unexpired months of the driver's license or card. An instruction permit or intermediate license issued under section 321.180B, subsection 1 or 2, shall include a distinctive color bar. An intermediate license issued under section 321.180B, subsection 2, shall include the words "intermediate license" printed prominently on the face of the license.

Sec. 6. Section 321.190, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. The department shall not issue a card to a person holding a driver's license. However, a card may be issued to a person holding a temporary permit under section 321.181. The card shall be identical in form to a driver's license issued under section 321.189 except the word "nonoperator" shall appear prominently on the face of the card. A nonoperator's identification card issued to a person under eighteen years of age shall ~~be identical in form to contain the same information as~~ any other nonoperator's identification card except that the words "under eighteen" shall appear prominently on the face of the card. A nonoperator's identification card issued to a person eighteen years of age or older but under twenty-one years of age shall ~~be identical in form to contain the same information as~~ any other nonoperator's identification card except that the words "under twenty-one" shall appear prominently on the face of the card.

<sup>1</sup> See chapter 176, §65 herein

Sec. 7. Section 321.208, Code 2001, is amended by adding the following new subsection:  
**NEW SUBSECTION. 6A.** A person is disqualified from operating a commercial motor vehicle if the person is convicted of a first, second, or third railroad crossing at grade violation as follows:

a. A person is disqualified from operating a commercial motor vehicle for sixty days if the person is convicted of a first railroad crossing at grade violation under section 321.343 and the violation occurred while the person was operating a commercial motor vehicle.

b. A person is disqualified from operating a commercial motor vehicle for one hundred twenty days if the person is convicted of a second railroad crossing at grade violation under section 321.343, the violation occurred while the person was operating a commercial motor vehicle, and the violation occurred within three years after a first such violation.

c. A person is disqualified from operating a commercial motor vehicle for one year if the person is convicted of a third or subsequent railroad crossing at grade violation under section 321.343, the violation occurred while the person was operating a commercial motor vehicle, and the violation occurred within three years after a first such violation.

Sec. 8. Section 321.213A, Code 2001, is amended to read as follows:

**321.213A LICENSE SUSPENSION FOR JUVENILES ADJUDICATED DELINQUENT FOR CERTAIN DRUG OR ALCOHOL OFFENSES.**

Upon the entering of a dispositional order under section 232.52, subsection 2, paragraph "a", the clerk of the juvenile court shall forward a copy of the adjudication and the dispositional order suspending or revoking the driver's license or operating privileges of the juvenile to the department. The department shall suspend the license or operating privilege of the child for one year. The child may receive a temporary restricted license ~~or permit~~, if eligible, as provided in section 321.215.

Sec. 9. Section 321.215, subsections 2 through 4, Code 2001, are amended to read as follows:

2. Upon conviction and the suspension or revocation of a person's noncommercial driver's license under section 321.209, subsection 5 or 6; section 321.210; 321.210A; or 321.513; or upon revocation pursuant to a court order issued under section 901.5, subsection 10; or upon the denial of issuance of a noncommercial driver's license under section 321.560, based solely on offenses enumerated in section 321.555, subsection 1, paragraph "c", or section 321.555, subsection 2; or a juvenile, whose license has been suspended or revoked pursuant to a dispositional order under section 232.52, subsection 2, paragraph "a", for a violation of chapter 124 or 453B, or section 126.3, a person may petition the district court having jurisdiction for the residence of the person for a temporary restricted ~~permit~~ license to operate a motor vehicle for the limited purpose or purposes specified in subsection 1. The petition shall include a current certified copy of the petitioner's official driving record issued by the department. The application may be granted only if all of the following criteria are satisfied:

a. The temporary restricted ~~permit~~ license is requested only for a case of extreme hardship or compelling circumstances where alternative means of transportation do not exist.

b. The ~~permit~~ license applicant has not made an application for a temporary restricted ~~permit~~ license in any district court in the state which was denied.

c. The temporary restricted ~~permit~~ license is restricted to the limited purpose or purposes specified in subsection 1 at times specified in the ~~permit~~ license.

d. Proof of financial responsibility is established as defined in chapter 321A. However, such proof is not required if the driver's license was suspended under section 321.210A or 321.513 or revoked pursuant to a court order issued under section 901.5, subsection 10.

If the district court determines that a temporary restricted license is necessary, the court shall order the department to issue a temporary restricted license to the applicant. The ~~district~~ court shall forward a record of each application for ~~such a~~ temporary restricted ~~permit~~ license to the department, together with the results of the disposition of the request by the court. ~~A temporary restricted permit is valid only if the department is in receipt of records required by this section.~~

3. The temporary restricted license ~~or permit~~ shall be canceled upon conviction of a moving traffic violation or upon a violation of a term of the license ~~or permit~~. A "moving traffic violation" does not include a parking violation as defined in section 321.210.

4. The temporary restricted license ~~or permit~~ is not valid to operate a commercial motor vehicle if a commercial driver's license is required for the person's operation of the commercial motor vehicle.

Sec. 10. Section 321.343, Code 2001, is amended to read as follows:

321.343 CERTAIN VEHICLES MUST STOP.

1. The driver of a motor vehicle carrying passengers for hire, a school bus, or a vehicle carrying hazardous material and required to stop before crossing a railroad track by motor carrier safety rules adopted under section 321.449, before crossing at grade any track of a railroad, shall stop the vehicle within fifty feet but not less than fifteen feet from the nearest rail. While stopped, the driver shall listen and look in both directions for an approaching train, and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely.

2. The driver of a commercial motor vehicle shall comply with all of the following provisions that apply to the driver:

a. If the driver is not always required to stop at a railroad crossing, slow down when approaching the crossing and check that the railroad tracks are clear of an approaching train before proceeding.

b. If the driver is not always required to stop at a railroad crossing, stop before reaching the crossing if the railroad tracks are not clear.

c. Refrain from proceeding through a railroad crossing if sufficient space is not available to drive completely through the crossing without stopping.

d. Obey a traffic-control device or the directions of an enforcement official at a railroad crossing.

e. Have sufficient undercarriage clearance before negotiating a railroad crossing.

3. No stop need be made at a crossing where a peace officer or a traffic-control device directs traffic to proceed. No stop need be made at a crossing designated by an "exempt" sign. An "exempt" sign shall be posted only where the tracks have been partially removed on either side of the roadway.

Sec. 11. Section 321.446, subsection 3, Code 2001, is amended to read as follows:

3. This section does not apply to peace officers acting on official duty. This section also does not apply to the transportation of children in 1965 model year or older vehicles, authorized emergency vehicles, ~~or buses,~~ or motor homes, except when a child is transported in a motor home's passenger seat situated directly to the driver's right. This section does not apply to the transportation of a child who has been certified by a physician licensed under chapter 148, 150, or 150A as having a medical, physical, or mental condition ~~which that~~ prevents or makes inadvisable securing the child in a child restraint system, safety belt, or safety harness.

Sec. 12. Section 321.449, subsection 1, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The department shall also adopt rules concerning hours of service for drivers of vehicles operated for hire and designed to transport ~~more than eight~~ seven or more persons, including the driver. The rules shall not apply to vehicles offered to the public for hire that are used principally in intracity operation and that are regulated by local authorities pursuant to section 321.236.

Sec. 13. Section 321.560, subsection 1, paragraphs a and b, Code 2001, are amended to read as follows:

a. A temporary restricted ~~permit~~ license may be issued pursuant to section 321.215, subsection 2, to a person declared to be a habitual offender under section 321.555, subsection 1, paragraph "c".

b. A temporary restricted ~~permit~~ license may be issued pursuant to section 321J.4, subsection 9, to a person declared to be a habitual offender due to a combination of the offenses listed under section 321.555, subsection 1, paragraph “b” or “c”.

Sec. 14. Section 321.561, Code 2001, is amended to read as follows:

321.561 PUNISHMENT FOR VIOLATION.

It shall be unlawful for any person found to be a habitual offender to operate any motor vehicle in this state during the period of time specified in section 321.560 except for a habitual offender who has been granted a temporary restricted ~~permit~~ license pursuant to section 321.215, subsection 2. A person violating this section commits an aggravated misdemeanor.

Sec. 15. Section 321A.14, Code 2001, is amended to read as follows:

321A.14 SUSPENSION TO CONTINUE UNTIL JUDGMENTS PAID AND PROOF GIVEN.

~~Such A~~ license, registration, and nonresident’s operating privilege shall remain ~~so~~ suspended under section 321A.13, and shall not be renewed, nor shall any such license or registration be ~~thereafter~~ subsequently issued in the name of ~~such the~~ person, including any ~~such~~ person not previously licensed, ~~unless and until every such judgment is satisfied in full or to the extent hereinafter provided, and until the said or until evidence is provided, to the satisfaction of the department, that the judgment has not been renewed and is no longer enforceable.~~ A person gives whose license, registration, or nonresident’s operating privilege was suspended under section 321A.13 must provide proof to the department of financial responsibility subject to the exemptions stated in sections 321A.13 and 321A.16 prior to obtaining a license, registration, or nonresident operating privilege.

Sec. 16. Section 321J.1, subsection 7, Code 2001, is amended to read as follows:

7. “Driver’s license” means any license or permit issued to a person to operate a motor vehicle on the highways of this state, including but not limited to a driver’s, commercial driver’s, temporary restricted, or temporary license and an instruction, chauffeur’s instruction, commercial driver’s instruction, ~~temporary restricted~~, or temporary permit.

Sec. 17. Section 321M.1, subsection 7, Code 2001, is amended to read as follows:

7. “Driver’s license” means any license or permit issued to a person to operate a motor vehicle on the highways of this state, including but not limited to a driver’s, commercial driver’s, temporary restricted, or temporary license and an instruction, chauffeur’s instruction, commercial driver’s instruction, ~~temporary restricted~~, or temporary permit.

Sec. 18. Section 325A.1, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 0A. “Bulk liquid commodities” means liquid commodities or compressed gases transported in a vehicle having a total cargo tank shell capacity of more than two thousand gallons.

Sec. 19. Section 325A.1, subsections 8 and 9, Code 2001, are amended to read as follows:

8. “Motor carrier of bulk liquid commodities” means a person engaged in the transportation, for hire, of bulk liquid commodities ~~or compressed gases in bulk upon any a~~ highway in this state.

9. “Motor carrier of property” means a person engaged in the transportation, for hire, of property by motor vehicle including a carrier transporting liquid commodities or compressed gases in a vehicle having a total cargo tank shell capacity of two thousand gallons or less.

Sec. 20. Section 325A.3, subsection 2, paragraph f, Code 2001, is amended to read as follows:

f. A financial statement completed by motor carriers of bulk liquid commodities or passengers from which the department can determine the financial fitness of the applicant to engage in the transport of bulk liquid commodities or passengers.

Sec. 21. Section 325A.3, subsection 4, Code 2001, is amended to read as follows:

4. Motor carriers of bulk liquid commodities or passengers shall complete a motor carrier safety education seminar provided by or approved by the department. This seminar must be completed within six months of the permit or certificate issuance.

Sec. 22. Section 422.9,<sup>2</sup> subsection 2, paragraph g, Code 2001, is amended by striking the paragraph and inserting in lieu thereof:

g. To the extent not otherwise included pursuant to section 164 of the Internal Revenue Code, add the amount of the annual registration fee paid for a motor vehicle pursuant to section 321.113, subsection 4, or section 321.113, subsection 5, paragraph "b", which is based upon the value of the vehicle. For purposes of this paragraph, sixty percent of the amount of the registration fee is based upon the value of the motor vehicle.

Sec. 23. Section 307.31, Code 2001, is repealed.

Sec. 24. EFFECTIVE DATE. Sections 4 and 22 of this Act, amending sections 321.113 and 422.9, take effect January 1, 2002.

Approved May 16, 2001

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## CHAPTER 133

### CRIMINAL DEFENDANTS' RESTITUTION PLANS — PETITIONS

S.F. 393

**AN ACT** relating to a petition to the court for a hearing on a criminal defendant's restitution plan.

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

Section 1. Section 910.7, Code 2001, is amended to read as follows:  
910.7 PETITION FOR HEARING.

1. At any time during the period of probation, parole, or incarceration, the offender or the office or individual who prepared the offender's restitution plan may petition the court on any matter related to the plan of restitution or restitution plan of payment and the court shall grant a hearing if on the face of the petition it appears that a hearing is warranted.

2. ~~The~~ After a petition has been filed, the court, at any time prior to the expiration of the offender's sentence, provided the required notice has been given pursuant to subsection 3, may modify the plan of restitution or the restitution plan of payment, or both, and may extend the period of time for the completion of restitution.

3. If a petition related to a plan of restitution has been filed, the offender, the county attorney, the department of corrections if the offender is currently confined in a correctional institution, the office or individual who prepared the offender's restitution plan, and the victim, shall receive notice prior to any hearing under this section.

Approved May 16, 2001

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<sup>2</sup> See 2001 Iowa Acts, Extraordinary Session, chapter 3, §1 herein

## CHAPTER 134

### LICENSES AND FEES REGULATED BY DEPARTMENT OF NATURAL RESOURCES

#### S.F. 407

**AN ACT** relating to the regulatory authority and procedures of the department of natural resources by providing for the issuance of limited quota licenses and the issuance of licenses and permits by electronic means.

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

Section 1. Section 481A.38, subsection 2, Code 2001, is amended to read as follows:

2. If the commission finds that the number of hunters licensed or the type of license issued to take deer or wild turkey should be limited or further regulated, the commission shall ~~conduct a drawing to determine which applicants shall receive a license and the type of license~~ adopt procedures, by rule, for issuing the licenses. ~~Applications for licenses shall be received during a period established by the commission. At the end of the period a drawing shall be conducted. The commission may establish rules to issue licenses after the established application period. If an applicant receives a deer license which is more restrictive than licenses issued to others for the same period and place, the applicant shall receive a certificate with the license entitling the applicant to priority in the drawing for the less restrictive deer licenses the following year. The certificate must accompany that person's application the following year, or the applicant will not receive this priority. Persons purchasing a deer license for the gun season under this section and under section 483A.1 are not eligible for a gun deer hunting license under section 483A.24, except as authorized by rules of the department. This subsection does not apply to the hunting of wild turkey on a hunting preserve licensed under chapter 484B.~~

Sec. 2. Section 481A.38, subsection 3, Code 2001, is amended by striking the subsection.

Sec. 3. Section 483A.1A, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. "License" means a privilege granted by the commission to fish, hunt, fur harvest, pursue, catch, kill, take in any manner, use, have possession of, sell, or transport all or part of a wild animal, bird, game, or fish, including any privilege related to a license granted by issuance of a stamp or a payment of a fee.

NEW SUBSECTION. 3B. "License agent" means an individual, business, or governmental agency authorized to sell a license.

NEW SUBSECTION. 3C. "License document" means an authorization, certificate, or permit issued by the department or a license agent that lists and confers one or more license privileges.

Sec. 4. Section 483A.7, subsection 2, Code 2001, is amended to read as follows:

2. The wild turkey hunting license shall be accompanied by a tag designed to be used only once ~~and separable into two parts.~~ If a wild turkey is taken, the wild turkey shall be tagged ~~with one part of the tag and both parts of the tag should~~ shall be dated.

Sec. 5. Section 483A.8, subsection 2, Code 2001, is amended to read as follows:

2. The deer hunting license shall be accompanied by a tag designed to be used only once ~~and separable into two parts.~~ When a deer is taken, the deer shall be tagged ~~with one part of the tag and both parts of the tag~~ shall be dated.

Sec. 6. Section 483A.10, Code 2001, is amended to read as follows:

#### 483A.10 ISSUANCE OF LICENSES.

The licenses issued pursuant to this chapter shall be issued by the department or the license ~~depositories~~ agents as specified by rules of the commission. A county recorder may



issue licenses subject to the rules of the ~~department~~ commission. The rules shall include the application procedures as necessary. The licenses shall show the total cost of the license ~~and the including a writing fee to be retained by the license agent and any administrative fees to be forwarded to the department, if applicable~~. A person authorized to issue a license or collect a fee pursuant to this chapter or chapter 484A shall charge the fee specified in this chapter or chapter 484A only plus a writing fee and administrative fee, if applicable.

Sec. 7. Section 483A.11, Code 2001, is amended to read as follows:

483A.11 ~~DEPOSITARIES~~ LICENSE AGENTS.

The director may designate ~~depositaries~~ license agents for the sale of licenses but in so doing the interest of the state shall be fully protected.

Sec. 8. Section 483A.12, Code 2001, is amended to read as follows:

483A.12 FEES.

The ~~county recorder~~ license agent shall be responsible for all fees for the issuance of hunting, fishing, and fur harvester licenses sold ~~through the recorder's office by the license agent~~. All unused license blanks shall be surrendered to the ~~county recorder~~ department upon the ~~recorder's~~ department's demand.

~~The county recorder shall retain a writing fee of fifty cents from the sale of each license sold by the county recorder's office. The writing fees retained by the county recorder shall be deposited in the general fund of the county. A license depositary designated by the director shall retain a writing fee of fifty cents from the sale of each license sold by the depositary except that the writing fee for a free deer or wild turkey license as authorized under section 483A.24, subsection 2, shall be one dollar. A license depositary may charge and retain a writing fee of one dollar for the issuance of a free deer hunting license or a free wild turkey hunting license as authorized under section 483A.24, subsection 2. If a county recorder is a license agent, the writing fees retained by the county recorder shall be deposited in the general fund of the county.~~

Sec. 9. Section 483A.13, Code 2001, is amended to read as follows:

483A.13 LOST OR DESTROYED BLANKS.

When license blanks in the possession of ~~the county recorder or depositaries~~ a license agent are accidentally destroyed, the holder of ~~such the~~ blanks shall only be relieved from accountability upon the presentation of satisfactory explanation and the filing of a bond to the director that ~~such the~~ blanks have actually been so destroyed. The commission may determine by rule what shall constitute a satisfactory explanation of ~~such the~~ occurrence.

Sec. 10. Section 483A.14, Code 2001, is amended to read as follows:

483A.14 DUPLICATE LICENSES AND PERMITS.

When any license, ~~certificate, or permit~~, for which a fee has been set, has been lost, destroyed, or stolen, the director, ~~the county recorder~~, or ~~the a~~ license depositary, agent may issue a replacement license, if evidence is available to demonstrate issuance of the original license and a fee of two dollars is paid, to be placed in the fish and game protection fund. If, on examination of the evidence, the director, ~~the recorder~~, or the license depositary agent, as the case may be, is satisfied that the license has been lost, destroyed, or stolen, the director, ~~the recorder~~, or the license depositary agent shall issue a duplicate license which shall be plainly marked "duplicate" and the duplicate shall serve in lieu of the original license and it shall contain the same information and signature as the original. The license depositary agent shall charge ~~and retain~~ a writing fee of one dollar and the departmental administrative fee for each duplicate license issued pursuant to this section. The license agent shall retain the writing fee.

Sec. 11. Section 483A.17, Code 2001, is amended to read as follows:

483A.17 TENURE OF LICENSE.

Every license, except ~~lifetime hunting and fishing licenses, scientific collecting licenses,~~

and falconry licenses, are as otherwise provided in this chapter, is valid from the date issued to January 10 of the succeeding calendar year for which it is issued. A license shall not be issued prior to December 15 for the subsequent calendar year.

Sec. 12. Section 483A.19, Code 2001, is amended to read as follows:

483A.19 SHOWING LICENSE TO OFFICER.

Every person shall, while fishing, hunting, or fur harvesting, show the person's license, certificate, or permit, document to any peace officer or the owner or person in lawful control of the land or water upon which licensee may be hunting, fishing, or fur harvesting when requested by the persons to do so. Any failure to so carry or refusal to show or so exhibit the person's license, certificate, or permit document shall be a violation of this chapter. However, except for possession and exhibition of deer licenses and tags or wild turkey licenses and tags, a person charged with violating this section shall not be convicted if the person produces in court, within a reasonable time, a license, certificate, or permit document for hunting, fishing, or fur harvesting issued to that person and valid when the person was charged with a violation of this section.

Sec. 13. Section 483A.21, unnumbered paragraphs 1 and 2, Code 2001, are amended to read as follows:

Upon the conviction of a licensee of any violation of chapter 481A, or of this chapter, or of any administrative order adopted and published by the commission, the magistrate may, as a part of the judgment, revoke ~~the one or more~~ license privileges of the licensee, or suspend ~~it~~ the privileges for any definite period.

The magistrate shall revoke the hunting license or suspend the privilege of procuring a hunting license for a period of one year of any person who has been convicted twice within a year of trespassing while hunting. If any of the hunting license privileges of a hunting and fishing combined licensee who purchased more than one license are privilege is revoked, the fishing remaining license privileges of the ~~license licensee~~ shall still be valid and the magistrate shall enter on the license ~~that document the hunting privileges are privilege that is~~ revoked. A person shall not purchase a license for a privilege that was revoked or suspended during the period of revocation or suspension.

Sec. 14. Section 483A.22, Code 2001, is amended to read as follows:

483A.22 RECORD OF REVOCATION.

~~Whenever~~ When a license is revoked the date, and cause, and tenure of such revocation shall be noted ~~on the stub retained by the county recorder and upon the duplicate on file in the office of the commission kept on file with the license records of the commission.~~ kept on file with the license records of the commission. The commission may refuse the issuance of a new license to any person whose license has ~~theretofore~~ been revoked.

Sec. 15. Section 483A.24, subsection 5, Code 2001, is amended to read as follows:

5. A resident or nonresident of the state under sixteen years of age ~~or a nonresident of the state under fourteen years of age~~ is not required to have a license to fish in the waters of the state. However, residents and nonresidents under sixteen years of age ~~and nonresidents under fourteen years of age~~ must pay the trout fishing fee to possess trout or they must fish for trout with a licensed adult who has paid the trout fishing fee and limit their combined catch to the daily limit established by the commission.

Approved May 16, 2001

**CHAPTER 135****SERVICES AND PROCEEDINGS INVOLVING JUVENILE  
DELINQUENTS AND OTHER CHILDREN**

S.F. 458

**AN ACT** relating to children's program and juvenile court provisions involving the department of human services in regard to the foster home insurance fund, group child care providers, juvenile delinquency and child in need of assistance dispositions, psychiatric medical institutions for children, and termination of parental rights, and providing an effective date.

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

**DIVISION I  
FOSTER HOME INSURANCE FUND**

Section 1. Section 237.13, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. A guardian appointed on a voluntary petition pursuant to section 232.178, or a voluntary petition of a ward pursuant to section 633.557, or a conservator appointed on a voluntary petition of a ward pursuant to section 633.572, provided the ward has an income that does not exceed one hundred fifty percent of the current federal office of management and budget poverty guidelines and who does not have resources in excess of the criteria for resources under the federal supplemental security income program. However, the ward's ownership of one residence and one vehicle shall not be considered in determining resources.

Sec. 2. Section 237.13, subsection 5, Code 2001, is amended to read as follows:

5. Except as provided in this section, the fund shall pay, on behalf of a guardian or conservator, the reasonable and necessary legal costs incurred in defending against a suit filed by a ward or the ward's representative and the damages awarded as a result of the suit, so long as it is determined that the guardian or conservator acted in good faith in the performance of their the guardian's or conservator's duties. A payment shall not be made if there is evidence of intentional misconduct or a knowing violation of the law by the guardian or conservator, including, but not limited to, failure to carry out the applicable responsibilities required under chapter 232 and sections 633.633 through 633.635 and 633.641 through 633.650.

**DIVISION II  
CHILD CARE PROVIDERS**

Sec. 3. Section 237A.3, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. Except as provided in subsection 3, a group child care home shall not provide child care to more than eleven children at any one time. If there are more than six children present for a period of two hours or more, the group child care home must have at least one responsible individual who is at least fourteen years of age present to assist the group child care provider in accordance with either of the following conditions:

(1) If the responsible individual is a joint holder of the certificate of registration, not more than four of the children present shall be ~~less than twenty-four months of age and not more than ten of the children present shall be twenty-four months of age or older but not attending school in kindergarten or a higher grade level~~ infants. The total number of children present at any one time who are younger than school age, including infants, shall not exceed eleven.

(2) If the responsible individual is not a joint holder of the certificate of registration, but is

at least fourteen years of age, not more than four of the children shall be ~~less than twenty-four months of age~~ infants and each child in excess of six children shall be ~~attending school in kindergarten or a higher grade level school age.~~

Sec. 4. Section 237A.3A, subsection 1, Code 2001, is amended to read as follows:

1. PILOT PROJECT. The department shall implement a pilot project applying the provisions of this section to registered family or group child care homes located in one county of this state. The provisions of this section shall not apply to unregistered family child care homes located in the pilot project county. The county selected for the pilot project shall be a rural county where there is interest among child care providers and consumers in implementing the pilot project. During the fiscal year beginning July 1, 1999, the department shall implement the pilot project in one county in each of the department's regions where there is interest in implementing the pilot project. In addition, the department may implement the pilot project in one other county in each of the department's regions where there is interest in implementing the pilot project. Commencing with the fiscal year beginning July 1, 2001, the department may implement the pilot project in other counties where there is an interest in implementing the pilot project. If a definition in section 237A.1, a provision in section 237A.3, or an administrative rule adopted under this chapter is in conflict with this section, this section and the rules adopted to implement this section shall apply to the pilot project.

### DIVISION III JUVENILE DELINQUENCY PROCEEDINGS

Sec. 5. Section 232.21, subsection 4, Code 2001, is amended to read as follows:

4. A child placed in a shelter care facility under this section shall not be held for a period in excess of forty-eight hours without an oral or written court order authorizing the shelter care. When the action is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order. A child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "c", shall not be held in excess of seventy-two hours in any event. If deemed appropriate by the court, an order authorizing shelter care placement may include a determination that continuation of the child in the child's home is contrary to the child's welfare and that reasonable efforts as defined in section 232.57 have been made. The inclusion of such a determination shall not under any circumstances be deemed a prerequisite for entering an order pursuant to this section. However, the inclusion of such a finding,<sup>1</sup> supported by the record, may assist the department in obtaining federal funding for the child's placement.

Sec. 6. Section 232.22, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. If deemed appropriate by the court, an order for placement of a child in detention may include a determination that continuation of the child in the child's home is contrary to the child's welfare and that reasonable efforts as defined in section 232.57 have been made. The inclusion of such a determination shall not under any circumstances be deemed a prerequisite for entering an order pursuant to this section. However, the inclusion of such a determination, supported by the record, may assist the department in obtaining federal funding for the child's placement.

Sec. 7. Section 232.52, subsection 6, unnumbered paragraph 1, Code 2001, is amended to read as follows:

When the court orders the transfer of legal custody of a child pursuant to subsection 2, ~~paragraphs paragraph "d", "e", or "f"~~, the order shall state that reasonable efforts as defined in section 232.57 have been made ~~to prevent or eliminate the need for removal of the child from the child's home.~~ If deemed appropriate by the court, the order may include a determination that continuation of the child in the child's home is contrary to the child's welfare. The inclusion of such a determination shall not under any circumstances be deemed a

<sup>1</sup> See chapter 176, §64 herein

prerequisite for entering an order pursuant to this section. However, the inclusion of such a determination, supported by the record, may be used to assist the department in obtaining federal funding for the child's placement.

Sec. 8. Section 232.53, subsection 4, Code 2001, is amended to read as follows:

4. a. Any person supervising but not having custody of the child pursuant to such an order shall file a written report with the court at least every six months concerning the status and progress of the child.

b. Any agency, facility, institution, or person to whom custody of the child has been transferred pursuant to such order shall file a written report with the court at least every six months concerning the status and progress of the child.

c. Any report prepared pursuant to this subsection shall be included in the record considered by the court in a permanency hearing conducted pursuant to section 232.58.

Sec. 9. NEW SECTION. 232.57 REASONABLE EFFORTS DEFINED.

1. For the purposes of this division, unless the context otherwise requires, "reasonable efforts" means the efforts made to prevent permanent removal of a child from the child's home and to encourage reunification of the child with the child's parents and family. If a court order includes a determination that continuation of the child in the child's home is not appropriate or not possible, reasonable efforts may include the efforts made in a timely manner to finalize a permanency plan for the child.

2. If the court determines by clear and convincing evidence that aggravated circumstances exist, with written findings of fact based upon evidence in the record, the court may waive the requirement for making reasonable efforts. The existence of aggravated circumstances is indicated by any of the following:

a. The parent has abandoned the child.

b. The court finds the circumstances described in section 232.116, subsection 1, paragraph "h", are applicable to the child.

c. The parent's parental rights have been terminated under section 232.116 with respect to another child who is a member of the same family, and there is clear and convincing evidence to show that the offer or receipt of services would not be likely within a reasonable period of time to correct the conditions which led to the child's removal.

d. The parent has been convicted of the murder of another child of the parent.

e. The parent has been convicted of the voluntary manslaughter of another child of the parent.

f. The parent has been convicted of aiding or abetting, attempting, conspiring in, or soliciting the commission of the murder or voluntary manslaughter of another child of the parent.

g. The parent has been convicted of a felony assault which resulted in serious bodily injury of the child or of another child of the parent.

3. Any order entered under this division may include findings regarding reasonable efforts.

Sec. 10. NEW SECTION. 232.58 PERMANENCY HEARINGS.

1. If an order entered pursuant to this division for an out-of-home placement of a child includes a determination that continuation of the child in the child's home is contrary to the child's welfare, the court shall review the child's continued placement by holding a permanency hearing or hearings in accordance with this section. The initial permanency hearing shall be the earlier of the following:

a. For an order for which the court has not waived reasonable efforts requirements, the permanency hearing shall be held within twelve months of the date the child was removed from the home.

b. For an order in a case in which aggravated circumstances exist for which the court has waived reasonable efforts requirements, the permanency hearing shall be held within thirty days of the date the requirements were waived.

2. Reasonable notice shall be provided of a permanency hearing for an out-of-home placement in which the court order has included a determination that continuation of the child in the child's home is contrary to the child's welfare. A permanency hearing shall be conducted in substantial conformance with the provisions of section 232.99. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any case permanency plan or evidence submitted to the court. Upon completion of the hearing, the court shall enter written findings identifying a primary permanency goal for the child. If a case permanency plan is in effect at the time of the hearing, the court shall also make a determination as to whether reasonable progress is being made in achieving the permanency goal and in complying with the other provisions of that case permanency plan.

3. After a permanency hearing, the court shall do one of the following:

a. Enter an order pursuant to section 232.52 to return the child to the child's home.

b. Enter an order pursuant to section 232.52 to continue the out-of-home placement of the child for an additional six months at which time the court shall hold a hearing to consider modification of its permanency order. An order entered under this paragraph shall enumerate the specific factors, conditions, or expected behavioral changes which comprise the basis for the determination that the need for removal of the child from the child's home will no longer exist at the end of the additional six-month period.

c. Direct the county attorney or the attorney for the child to institute proceedings to terminate the parent-child relationship.

d. Enter an order, pursuant to findings based upon the existence of the evidence required by subsection 4, to do one of the following:

(1) Transfer guardianship and custody of the child to a suitable person.

(2) Transfer sole custody of the child from one parent to another parent.

(3) Transfer custody of the child to a suitable person for the purpose of long-term care.

(4) If the department has documented to the court's satisfaction a compelling reason for determining that an order under the other subparagraphs of this paragraph "d" would not be in the child's best interest, order another planned permanent living arrangement for the child.

4. Prior to entering a permanency order pursuant to subsection 3, paragraph "d", clear and convincing evidence must exist showing that all of the following apply:

a. A termination of the parent-child relationship would not be in the best interest of the child.

b. Services were offered to the child's family to correct the situation which led to the child's removal from the home.

c. The child cannot be returned to the child's home.

5. Any permanency order may provide restrictions upon the contact between the child and the child's parent or parents, consistent with the best interest of the child.

6. Subsequent to the entry of a permanency order pursuant to this section, the child shall not be returned to the care, custody, or control of the child's parent or parents, over a formal objection filed by the child's attorney or guardian ad litem, unless the court finds by a preponderance of the evidence that returning the child to such custody would be in the best interest of the child.

7. Following an initial permanency hearing and the entry of a permanency order which places a child in the custody or guardianship of another person or agency, the court shall retain jurisdiction and annually review the order to ascertain whether the best interest of the child is being served. When the order places the child in the custody of the department for the purpose of a planned permanent living arrangement, the review shall be in a hearing that shall not be waived or continued beyond twelve months after the initial permanency hearing or the last permanency review hearing. Any modification shall be accomplished through a hearing procedure following reasonable notice. During the hearing, all relevant and material evidence shall be admitted and procedural due process shall be provided to all parties.

DIVISION IV  
CHILD IN NEED OF ASSISTANCE PROCEEDINGS

Sec. 11. Section 232.73, unnumbered paragraph 2, Code 2001, is amended to read as follows:

As used in this section and ~~section in sections~~ 232.77 and 232.78, "medically relevant test" means a test that produces reliable results of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof of the illegal drugs, including a drug urine screen test.

Sec. 12. Section 232.78, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. It appears that the child's immediate removal is necessary to avoid imminent danger to the child's life or health. The circumstances or conditions indicating the presence of such imminent danger shall include but are not limited to any of the following:

(1) The refusal or failure of the person responsible for the care of the child to comply with the request of a peace officer, juvenile court officer, or child protection worker for such person to obtain and provide to the requester the results of a physical or mental examination of the child. The request for a physical examination of the child may specify the performance of a medically relevant test.

(2) The refusal or failure of the person responsible for the care of the child or a person present in the person's home to comply with a request of a peace officer, juvenile court officer, or child protection worker for such a person to submit to and provide to the requester the results of a medically relevant test of the person.

Sec. 13. Section 232.78, subsection 7, Code 2001, is amended to read as follows:

7. Any order entered under this section authorizing temporary removal of a child ~~shall~~ must include both of the following:

a. ~~A statement that the temporary removal is the result of a determination made by the court that continuation of the child remaining in the child's home would be contrary to the welfare of the child, and that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home. Such a determination must be made on a case-by-case basis. The grounds for the court's determination must be explicitly documented and stated in the order. However, preserving the safety of the child must be the court's paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determination shall not be a prerequisite to the removal of the child.~~

b. A statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

Sec. 14. Section 232.79, subsection 4, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. If deemed appropriate by the court, upon being informed that there has been an emergency removal or keeping of a child without a court order, the court may enter an order in accordance with section 232.78.

Sec. 15. Section 232.95, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. Remove the child from home and place the child in a shelter care facility or in the custody of a suitable person or agency pending a final order of disposition if the court finds that substantial evidence exists to believe that removal is necessary to avoid imminent risk to the child's life or health.

(1) If removal is ordered, the order shall court must, in addition, contain a statement that removal from the home is the result of make a determination that continuation of the child in the child's home would be contrary to the welfare of the child, and that reasonable efforts,

as defined in section 232.102, have been made to prevent or eliminate the need for removal of the child from the child's home.

(2) The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the court that reasonable efforts are not required, must be made on a case-by-case basis. The grounds for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child must be the court's paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph "a" shall not be a prerequisite for an order for removal of the child.

(3) The order shall also include a statement informing the child's parent that the consequences of a permanent removal may include termination of the parent's rights with respect to the child.

Sec. 16. Section 232.96, subsection 10, paragraph a, Code 2001, is amended to read as follows:

a. ~~A statement that the temporary removal is the result of a~~ determination that continuation of the child remaining in the child's home would be contrary to the welfare of the child, and that reasonable efforts, as defined in section 232.102, have been made to prevent or eliminate the need for removal of the child from the child's home. The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the court that reasonable efforts are not required, must be made on a case-by-case basis. The grounds for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child is the paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph shall not be a prerequisite for an order for temporary removal of the child.

Sec. 17. Section 232.102, subsection 5, paragraph b, unnumbered paragraph 2, Code 2001, is amended to read as follows:

~~The order shall, in addition, contain a statement that removal from the home is the result of a determination that~~ In order to transfer custody of the child under this subsection, the court must make a determination that continuation of the child in the child's home would be contrary to the welfare of the child, and shall identify the reasonable efforts that have been made. The court's determination regarding continuation of the child in the child's home, and regarding reasonable efforts, including those made to prevent removal and those made to finalize any permanency plan in effect, as well as any determination by the court that reasonable efforts are not required, must be made on a case-by-case basis. The grounds for each determination must be explicitly documented and stated in the court order. However, preserving the safety of the child is the paramount consideration. If imminent danger to the child's life or health exists at the time of the court's consideration, the determinations otherwise required under this paragraph shall not be a prerequisite for an order for removal of the child.

Sec. 18. Section 232.102, subsection 10, paragraph a, unnumbered paragraph 1, Code 2001, is amended to read as follows:

As used in this ~~section~~ division, "reasonable efforts" means the efforts made to preserve and unify a family prior to the out-of-home placement of a child in foster care or to eliminate the need for removal of the child or make it possible for the child to safely return to the family's home. If returning the child to the family's home is not appropriate or not possible, reasonable efforts shall include the efforts made in a timely manner to finalize a perma-



nency plan for the child. A child's health and safety shall be the paramount concern in making reasonable efforts. Reasonable efforts may include intensive family preservation services or family-centered services, if the child's safety in the home can be maintained during the time the services are provided. In determining whether reasonable efforts have been made, the court shall consider both of the following:

Sec. 19. Section 232.102, subsection 12, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If the court determines by clear and convincing evidence that aggravated circumstances exist, with written findings of fact based upon evidence in the record, the court may waive the requirement for making reasonable efforts. The existence of aggravated circumstances is indicated by any of the following:

Sec. 20. Section 232.103, subsection 3, Code 2001, is amended to read as follows:

3. A hearing shall be held on a motion to terminate or modify a dispositional order except that a hearing on a motion to terminate an order may be waived upon agreement by all parties. Reasonable notice of the hearing shall be given ~~in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section 232.37 to the parties.~~ The hearing shall be conducted in accordance with the provisions of section 232.50.

Sec. 21. Section 232.104, subsection 1, paragraph c, Code 2001, is amended to read as follows:

c. Reasonable notice of a permanency hearing ~~in a case of juvenile delinquency shall be provided pursuant to section 232.37 to the parties.~~ A permanency hearing shall be conducted in substantial conformance with the provisions of section 232.99. During the hearing, the court shall consider the child's need for a secure and permanent placement in light of any permanency plan or evidence submitted to the court. Upon completion of the hearing, the court shall enter written findings and make a determination identifying a primary permanency goal for the child. If a permanency plan is in effect at the time of the hearing, the court shall also make a determination as to whether reasonable progress is being made in achieving the permanency goal and complying with the other provisions of that permanency plan.

Sec. 22. Section 232.104, subsection 2, paragraph d, subparagraph (4), Code 2001, is amended to read as follows:

(4) ~~Order long-term foster care placement for the child in a licensed foster care home or facility. If the department has documented to the court's satisfaction a compelling reason for determining that an order under the other subparagraphs of this paragraph "d" would not be in the child's best interest, order another planned permanent living arrangement for the child.~~

Sec. 23. REHABILITATIVE TREATMENT SERVICES STAFF REQUIREMENTS.

1. Subject to federal requirements, the department of human services shall act to change the staff qualification requirements for rehabilitative treatment services provided under the medical assistance program that are applicable to those staff providing therapy and counseling services, and psychosocial evaluation and behavioral management services for children in therapeutic foster care. Under the change, such staff who have graduated from an accredited four-year college, institute, or university with a bachelor's degree in social work in a program that is accredited by the council on social work education shall not be required to have full-time experience in social work or experience in the delivery of human services in a public or private area.

2. If necessary to implement the change required by this section, the department shall submit a plan amendment or otherwise request authorization from the United States health care financing administration. In addition, as necessary to quickly implement the change, the department may adopt emergency rules under section 17A.4, subsection 2, and section

17A.5, subsection 2, paragraph "b", to implement the provisions of this section and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 24. EFFECTIVE DATE. Section 23, of this division of this Act, relating to rehabilitative treatment services staff requirements, being deemed of immediate importance, takes effect upon enactment.

#### DIVISION V TERMINATION OF PARENTAL RIGHTS

Sec. 25. Section 232.111, subsection 2, paragraph a, subparagraph (1), Code 2001, is amended to read as follows:

(1) The child has been placed in foster care for fifteen months ~~or more~~ of the most recent twenty-two-month period. The petition shall be filed by the end of the child's fifteenth month of foster care placement.

#### DIVISION VI NOTICE PROVISIONS

Sec. 26. Section 232.45, subsection 3, Code 2001, is amended to read as follows:

3. A Reasonable notice that states the time, place, and purpose of the waiver hearing shall be ~~issued and served in the same manner as provided to the persons required to be provided notice~~ for adjudicatory hearings ~~as provided in under~~ section 232.37. Summons, subpoenas, and other process may be issued and served in the same manner as for adjudicatory hearings as provided in section 232.37.

Sec. 27. Section 232.54, subsection 8, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Notice requirements of this section shall be satisfied ~~in the same manner as for~~ by providing reasonable notice to the persons required to be provided notice for adjudicatory hearings ~~as provided in under~~ section 232.37, except that notice shall be waived regarding a person who was notified of the adjudicatory hearing and who failed to appear. At a hearing under this section all relevant and material evidence shall be admitted.

Sec. 28. Section 232.88, Code 2001, is amended to read as follows:

232.88 SUMMONS, NOTICE, SUBPOENAS, AND SERVICE.

After a petition has been filed the court shall issue and serve summons, ~~notice~~, subpoenas, and other process in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section 232.37. ~~In addition~~ Reasonable notice shall be provided to the persons required to be provided notice under section 232.37, except that notice shall be waived regarding a person who was notified of the adjudicatory hearing and who failed to appear. In addition, reasonable notice for any hearing under this division shall be provided to the agency, facility, institution, or person, including a foster parent, relative, or ~~an~~ other individual providing preadoptive care, with whom a child has been placed.

#### DIVISION VII PSYCHIATRIC MEDICAL INSTITUTIONS FOR CHILDREN

Sec. 29. CLIENT FINANCIAL PARTICIPATION. The department of human services shall work with private providers of psychiatric medical institution for children (PMIC) services to eliminate or substantially reduce the requirement that PMIC providers must collect client financial participation in the cost of services and during fiscal year 2001-2002 shall submit to the governor and general assembly proposals to achieve this purpose.

Sec. 30. Section 135H.10, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 3. Except for those psychiatric medical institutions for children which are specialized to provide substance abuse treatment, unless expressly authorized in statute, the department of human services shall not include services provided by psychiatric medical institutions for children in any managed care contract.

Approved May 16, 2001

## CHAPTER 136

### INFECTIOUS AND CONTAGIOUS DISEASES IN ANIMALS — REGULATION AND REMEDIES

S.F. 470

**AN ACT** relating to the regulation of infectious and contagious diseases in animals, and providing for penalties.

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

Section 1. Section 163.1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~In the enforcement of~~ The department shall administer and enforce the provisions of this chapter, and rules adopted by the department pursuant to this chapter. In administering the provisions of this chapter, the department of agriculture and land stewardship shall have power to do all of the following:

Sec. 2. Section 163.6, subsection 4, Code 2001, is amended by striking the subsection.

Sec. 3. Section 163.18, Code 2001, is amended to read as follows:

163.18 FALSE REPRESENTATION.

~~Any A person who shall not knowingly makes any make a false representation as to the purpose for which a about the shipment of animals an animal that is being or will be made, with the intent to avoid or prevent an the animal's inspection of such animals for the purpose of determining that is conducted in order to determine whether the animals are animal is free from disease, shall be guilty of a simple misdemeanor.~~

Sec. 4. Section 163.23, Code 2001, is amended to read as follows:

163.23 FALSE CERTIFICATES OF HEALTH — PENALTY.

~~Any A veterinarian issuing shall not issue a certificate of health for an animal knowing that the animal described therein in the certificate of health was not the same animal from which the tests were made as a basis for issuing the certificate or who. A veterinarian shall not otherwise falsifies any such falsify a certificate shall be guilty of a fraudulent practice of health.~~

Sec. 5. Section 163.24, Code 2001, is amended to read as follows:

163.24 USING FALSE CERTIFICATE.

~~Any A person, firm, or corporation importing, exporting, or transporting shall not conduct a transaction to import, export, or transport an animal within this state or selling sell or offering offer for sale any an animal for which, if the person uses a certificate of health~~

~~has been issued and who uses such certificate in connection with any of said transactions the transaction knowing that the animal described in said the certificate of health was not the animal from which the tests were made as a basis for issuing the certificate or who knowingly uses any of health. A person shall not otherwise use an altered or otherwise false certificate in connection with any of said transactions shall be guilty of a fraudulent practice such transaction.~~

Sec. 6. Section 163.25, Code 2001, is amended to read as follows:

163.25 ALTERING CERTIFICATE.

~~Any A person, firm, or corporation removing or altering shall not remove or alter a tag or mark of identification appearing on any an animal, tested or being tested for disease, any if the tag or mark of identification is authorized by the department or inserted by any qualified veterinarian or altering any. A person shall not alter a certificate of vaccination issued by one a person authorized to vaccinate animals shall be guilty of a fraudulent practice the animal.~~

Sec. 7. NEW SECTION. 163.51 CIVIL PENALTIES.

1. The department shall establish, by rule, civil penalties which may be administratively or judicially assessed. The attorney general shall cooperate with the department in the assessment and collection of civil penalties.

2. a. Except as provided in paragraph "b", a person violating a provision of this chapter, or a rule adopted pursuant to this chapter, shall be subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars. In the case of a continuing violation, each day of the continuing violation is a separate violation. However, a person shall not be subject to a civil penalty totaling more than twenty-five thousand dollars.

b. Notwithstanding the provisions of paragraph "a", a person who falsifies a health certificate, veterinarian inspection certificate, or certificate of inspection shall be subject to a civil penalty of not more than five thousand dollars for each reference to an animal falsified on the certificate. However, a person who falsifies a certificate of inspection issued pursuant to chapter 166D shall be subject to a civil penalty as provided in this section or section 166D.16, but not both. A person shall not be subject to a civil penalty totaling more than twenty-five thousand dollars for falsifying a certificate, regardless of the number of animals falsified on the certificate.

3. Moneys collected from civil penalties shall be deposited into the general fund of the state.

Sec. 8. NEW SECTION. 163.52 INJUNCTIVE RELIEF.

The department or the attorney general acting on behalf of the department may apply to the district court for injunctive relief in order to restrain a person from acting in violation of this chapter. In order to obtain injunctive relief, the department shall not be required to post a bond or prove the absence of an adequate remedy at law, unless the court for good cause otherwise orders. The court may order any form of prohibitory or mandatory relief that is appropriate under principles of equity, including but not limited to issuing a temporary or permanent restraining order.

Sec. 9. DIRECTIONS TO CODE EDITOR. The Code editor shall organize chapter 163 into subchapters based on divisions of the chapter and this Act, and replace the term "division" with "subchapter" wherever it occurs in the chapter.

Sec. 10. Sections 163.21, 163.29, and 163.31, Code 2001, are repealed.

Approved May 16, 2001

**CHAPTER 137****SCHEDULED FINES — MISCELLANEOUS CHANGES**

S.F. 499

**AN ACT** making changes to and reorganizing scheduled fines.

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

Section 1. Section 805.8, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

**805.8 SCHEDULED VIOLATIONS.**

1. **APPLICATION.** Except as otherwise indicated, violations of sections of the Code specified in sections 805.8A, 805.8B, and 805.8C, are scheduled violations, and the scheduled fine for each of those violations is as provided in those sections, whether the violation is of state law or of a county or city ordinance. The criminal penalty surcharge required by section 911.2 shall be added to the scheduled fine.

2. **DESCRIPTION OF VIOLATIONS.** The descriptions of offenses used in sections 805.8A, 805.8B, and 805.8C, are for convenience only and shall not be construed to define any offense or to include or exclude any offense other than those specifically included or excluded by reference to the Code. A reference to a section or subsection of the Code without further limitation includes every offense defined by that section or subsection.

Sec. 2. **NEW SECTION.** 805.8A MOTOR VEHICLE AND TRANSPORTATION SCHEDULED VIOLATIONS.

**1. PARKING VIOLATIONS.**

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

b. For a parking violation under section 321L.2A, subsection 2, the scheduled fine is twenty dollars.

c. For violations under section 321L.2A, subsection 3, 321L.3, 321L.4, subsection 2, and 321L.7, the scheduled fine is one hundred dollars.

**2. TITLE OR REGISTRATION VIOLATIONS.**

a. For violations under sections 321.32, 321.34, 321.37, 321.38, and 321.41, the scheduled fine is ten dollars.

b. For violations under sections 321.17, 321.47, 321.55, 321.98, and 321.115, the scheduled fine is thirty dollars.

c. For violations under sections 321.25, 321.45, 321.46, 321.48, 321.52, 321.57, 321.62, 321.67, and 321.104, the scheduled fine is fifty dollars.

d. For a violation under section 321.99, the scheduled fine is one hundred dollars.

**3. EQUIPMENT VIOLATIONS.**

a. For violations under sections 321.317, 321.386, 321.387, 321.388, 321.389, 321.390, 321.392, 321.393, 321.422, 321.432, 321.436, 321.439, 321.440, 321.441, 321.442, and 321.444, the scheduled fine is ten dollars.

b. For improperly used or nonused, or defective or improper equipment, other than brakes, driving lights and brake lights, under section 321.437, the scheduled fine is ten dollars.

c. For violations under sections 321.382, 321.404A, and 321.438, the scheduled fine is fifteen dollars.

d. For violations of sections 321.383, 321.384, 321.385, 321.398, 321.402, 321.403, 321.404, 321.409, 321.415, 321.419, 321.420, 321.421, 321.423, and 321.433, the scheduled fine is twenty dollars.

e. For a violation of section 321.430, the scheduled violation is thirty-five dollars.

f. For violations under sections 321.234A, 321.247, 321.381, and 321.381A, the scheduled fine is fifty dollars.

#### 4. DRIVER'S LICENSE VIOLATIONS.

a. For violations under sections 321.174A, 321.180, 321.180B, 321.193, and 321.194, the scheduled fine is thirty dollars.

b. For a violation of section 321.216, the scheduled violation is seventy-five dollars.

c. For violations under sections 321.174, 321.216B, 321.216C, 321.219, and 321.220, the scheduled fine is one hundred dollars.

#### 5. SPEED VIOLATIONS.

a. For excessive speed violations in excess of the limit under section 321.236, subsections 5 and 11, sections 321.285, and 461A.36, the scheduled fine shall be the following:

(1) Ten dollars for speed not more than five miles per hour in excess of the limit.

(2) Twenty dollars for speed greater than five but not more than ten miles per hour in excess of the limit.

(3) Thirty dollars for speed greater than ten but not more than fifteen miles per hour in excess of the limit.

(4) Forty dollars for speed greater than fifteen but not more than twenty miles per hour in excess of the limit.

(5) Forty dollars plus two dollars for each mile per hour of excessive speed over twenty miles per hour over the limit.

b. Notwithstanding paragraph "a", for excessive speed violations in speed zones greater than fifty-five miles per hour, the scheduled fine shall be:

(1) Ten dollars for speed not more than five miles per hour in excess of the limit.

(2) Twenty dollars for speed greater than five but not more than ten miles per hour in excess of the limit.

(3) Forty dollars for speed greater than ten but not more than fifteen miles per hour in excess of the limit.

(4) Sixty dollars for speed greater than fifteen but not more than twenty miles per hour in excess of the limit.

(5) Sixty dollars plus two dollars for each mile per hour of excessive speed over twenty miles per hour over the limit.

c. Excessive speed in whatever amount by a school bus is not a scheduled violation under any section listed in this subsection.

d. Excessive speed in conjunction with a violation of section 321.278 is not a scheduled violation, whatever the amount of excess speed.

e. For a violation under section 321.295, the scheduled fine is thirty dollars.

#### 6. OPERATING VIOLATIONS.

a. For a violation under section 321.236, subsections 3, 4, 9, and 12, the scheduled fine is twenty dollars.

b. For violations under sections 321.275, subsections 1 through 7, 321.277A, 321.315, 321.316, 321.318, 321.363, and 321.365, the scheduled fine is twenty-five dollars.

c. For violations under sections 321.288, 321.297, 321.299, 321.303, 321.304, subsections 1 and 2, 321.305, 321.306, 321.311, 321.312, 321.314, 321.323, 321.340, 321.353, 321.354, and 321.395, the scheduled fine is thirty-five dollars.

d. For violations under sections 321.302 and 321.366, the scheduled fine is fifty dollars.

#### 7. FAILURE TO YIELD OR OBEY VIOLATIONS.

a. For a violation by an operator of a motor vehicle under section 321.257, subsection 2, the scheduled fine is thirty-five dollars.

b. For violations under sections 321.298, 321.307, 321.308, 321.313, 321.319, 321.320, 321.321, 321.327, 321.329, and 321.333, the scheduled fine is thirty-five dollars.

8. TRAFFIC SIGN OR SIGNAL VIOLATIONS. For violations under sections 321.236, subsections 2 and 6, 321.256, 321.294, 321.304, subsection 3, and 321.322, the scheduled fine is thirty-five dollars.

9. BICYCLE OR PEDESTRIAN VIOLATIONS. For violations by a pedestrian or a bicyclist under section 321.234, subsections 3 and 4, 321.236, subsection 10, 321.257, subsection 2, 321.275, subsection 8, 321.325, 321.326, 321.328, 321.331, 321.332, 321.397, or 321.434, the scheduled fine is fifteen dollars.

10. SCHOOL BUS VIOLATIONS.

a. For violations by an operator of a school bus under sections 321.285 and 321.372, subsections 1 and 2, the scheduled fine is thirty-five dollars. However, an excessive speed violation by a school bus of more than ten miles per hour in excess of the limit is not a scheduled violation.

b. For a violation under section 321.372, subsection 3, the scheduled violation is one hundred dollars.

11. EMERGENCY VEHICLE VIOLATIONS.

a. For violations under sections 321.231, 321.367, and 321.368 the scheduled fine is thirty-five dollars.

b. For a violation under section 321.324, the scheduled fine is fifty dollars.

12. RESTRICTIONS ON VEHICLES.

a. For violations under sections 321.309, 321.310, 321.394, 321.461, and 321.462, the scheduled fine is twenty-five dollars.

b. For height, weight, length, width, load violations, and towed vehicle violations under section 321.437, the scheduled fine is twenty-five dollars.

c. For violations under sections 321.454, 321.455, 321.456, 321.457, and 321.458, the scheduled fine is one hundred dollars.

d. For violations under section 321.466, the scheduled fine is twenty dollars for each two thousand pounds or fraction thereof of overweight.

e. Violations of the schedule of axle and tandem axle and gross or group of axle weight violations in section 321.463 shall be scheduled violations subject to the provisions, procedures, and exceptions contained in sections 805.6 to 805.11, irrespective of the amount of the fine under that schedule. Violations of the schedule of weight violations shall be chargeable, where the fine charged does not exceed one thousand dollars, only by uniform citation and complaint. Violations of the schedule of weight violations, where the fine charged exceeds one thousand dollars shall, when the violation is admitted and section 805.9 applies, be chargeable upon uniform citation and complaint, indictment, or county attorney's information, but otherwise, shall be chargeable only upon indictment or county attorney's information.

In all cases of charges under the schedule of weight violations, the charge shall specify the amount of fine charged under the schedule. Where a defendant is convicted and the fine under the foregoing schedule of weight violations exceeds one thousand dollars, the conviction shall be of an indictable offense although section 805.9 is employed and whether the violation is charged upon uniform citation and complaint, indictment, or county attorney's information.

f. For a violation under section 321E.16, other than the provisions relating to weight, the scheduled fine is one hundred dollars.

13. MOTOR CARRIER VIOLATIONS.

a. For violations under sections 321.54, 326.22, and 326.23, the scheduled fine is twenty dollars.

b. For a violation under section 321.449, the scheduled fine is twenty-five dollars.

c. For violations under sections 321.208A, 321.364, 321.450, 321.460, and 452A.52, the scheduled fine is one hundred dollars.

d. For violations of section 325A.3, subsection 5, or section 325A.8, the scheduled fine is fifty dollars.

e. For violations of chapter 325A, other than a violation of section 325A.3, subsection 5, or section 325A.8, the scheduled fine is two hundred fifty dollars.

f. For failure to have proper carrier identification markings under section 327B.1, the scheduled fine is fifty dollars.

g. For failure to have proper evidence of interstate authority carried or displayed under section 327B.1, and for failure to register, carry, or display evidence that interstate authority is not required under section 327B.1, the scheduled fine is two hundred fifty dollars.

#### 14. MISCELLANEOUS VIOLATIONS.

a. FAILURE TO OBEY A PEACE OFFICER. For a violation under section 321.229, the scheduled fine is thirty-five dollars.

b. ABANDONING A MOTOR VEHICLE. For violation under section 321.91, the scheduled fine is one hundred dollars.

c. SEAT BELT OR RESTRAINT VIOLATIONS. For violations under sections 321.445 and 321.446, the scheduled fine is twenty-five dollars.

d. LITTER AND DEBRIS VIOLATIONS. For violations under sections 321.369 and 321.370, the scheduled fine is thirty-five dollars.

e. OPEN CONTAINER VIOLATIONS. For violations under sections 321.284 and 321.284A, the scheduled fine is one hundred dollars.

f. PROOF OF FINANCIAL RESPONSIBILITY. If, in connection with a motor vehicle accident, a person is charged and found guilty of a violation of section 321.20B, subsection 1, the scheduled fine is five hundred dollars, otherwise, the scheduled fine for a violation of section 321.20B, subsection 1, is two hundred fifty dollars. Notwithstanding section 805.12, fines collected pursuant to this paragraph shall be submitted to the state court administrator and distributed fifty percent to the victim compensation fund established in section 915.94, twenty-five percent to the county in which such fine is imposed, and twenty-five percent to the general fund of the state.

g. RADAR-JAMMING DEVICES. For a violation under section 321.232, the scheduled fine is fifty dollars.

#### h. RAILROAD CROSSING VIOLATIONS.

(1) For violations under sections 321.341, 321.342, 321.343, and 321.344, the scheduled fine is one hundred dollars.

(2) For a violation under section 321.344B, the scheduled fine is two hundred dollars.

i. ROAD WORK ZONE VIOLATIONS. The scheduled fine for any moving traffic violation under chapter 321, as provided in this section, shall be doubled if the violation occurs within any road work zone, as defined in section 321.1.

### Sec. 3. NEW SECTION. 805.8B NAVIGATION, RECREATION, HUNTING, AND FISHING SCHEDULED VIOLATIONS.

#### 1. NAVIGATION VIOLATIONS.

a. For violations of registration, inspections, identification, and record provisions under sections 462A.5, 462A.35, and 462A.37, and for unused or improper or defective lights and warning devices under section 462A.9, subsections 3, 4, 5, 9, and 10, the scheduled fine is ten dollars.

b. For violations of registration, identification, and record provisions under sections 462A.4 and 462A.10, and for unused or improper or defective equipment under section 462A.9, subsections 2, 6, 7, 8, and 13, and section 462A.11, and for operation violations under sections 462A.26, 462A.31, and 462A.33, the scheduled fine is twenty dollars.

c. For operating violations under sections 462A.12, 462A.15, subsection 1, sections 462A.24, and 462A.34, the scheduled fine is twenty-five dollars. However, a violation of section 462A.12, subsection 2, is not a scheduled violation.

d. For violations of use, location, and storage of vessels, devices, and structures under sections 462A.27, 462A.28, and 462A.32, the scheduled fine is fifteen dollars.



e. For violations of all subdivision ordinances under section 462A.17, subsection 2, except those relating to matters subject to regulation by authority of section 462A.31, subsection 5, the scheduled fine is the same as prescribed for similar violations of state law. For violations of subdivision ordinances for which there is no comparable state law, the scheduled fine is ten dollars.

#### 2. SNOWMOBILE AND ALL-TERRAIN VEHICLE VIOLATIONS.

a. For registration violations under section 321G.3, the scheduled fine is twenty dollars. When the scheduled fine is paid, the violator shall submit sufficient proof that a valid registration has been obtained.

b. For operating violations under section 321G.9, subsections 1, 2, 3, 4, 5, and 7, sections 321G.11, and 321G.13, subsections 4 and 9, the scheduled fine is twenty dollars.

c. For improper or defective equipment under section 321G.12, the scheduled fine is ten dollars.

d. For violations of section 321G.19, the scheduled fine is fifteen dollars.

e. For identification violations under section 321G.5, the scheduled fine is ten dollars.

#### 3. HUNTING AND FISHING VIOLATIONS.

a. For violations of section 484A.2, the scheduled fine is ten dollars.

b. For violations of sections 481A.54, 481A.69, 481A.71, 481A.72, 482.6, 483A.3, 483A.6, 483A.19, and 483A.27, the scheduled fine is twenty dollars.

c. For violations of sections 481A.6, 481A.21, 481A.22, 481A.26, 481A.50, 481A.56, 481A.60 through 481A.62, 481A.83, 481A.84, 481A.92, 481A.123, 481A.145, subsection 3, sections 482.7, 483A.7, 483A.8, 483A.23, and 483A.24, the scheduled fine is twenty-five dollars.

d. For violations of sections 481A.7, 481A.24, 481A.47, 481A.52, 481A.53, 481A.55, 481A.58, 481A.76, 481A.90, 481A.91, 481A.97, 481A.122, 481A.126, 481A.142, 481A.145, subsection 2, sections 482.8, and 483A.37, the scheduled fine is fifty dollars.

e. For violations of sections 481A.85, 481A.93, 481A.95, 481A.120, 481A.137, 481B.5, 482.3, 482.9, 482.15, and 483A.42, the scheduled fine is one hundred dollars.

f. For violations of section 481A.38 relating to the taking, pursuing, killing, trapping or ensnaring, buying, selling, possessing, or transporting any game, protected nongame animals, fur-bearing animals, or fur or skin of the animals, mussels, frogs, or fish or part of them, the scheduled fines are as follows:

(1) For deer or turkey, the scheduled fine is one hundred dollars.

(2) For protected nongame, the scheduled fine is one hundred dollars.

(3) For mussels, frogs, spawn, or fish, the scheduled fine is twenty-five dollars.

(4) For other game, the scheduled fine is fifty dollars.

(5) For fur-bearing animals, the scheduled fine is seventy-five dollars.

g. For violations of section 481A.38 relating to an attempt to take, pursue, kill, trap, buy, sell, possess, or transport any game, protected nongame animals, fur-bearing animals, or fur or skin of the animals, mussels, frogs, or fish or part of them, the scheduled fines are as follows:

(1) For game or fur-bearing animals, the scheduled fine is fifty dollars.

(2) For protected nongame, the scheduled fine is fifty dollars.

(3) For mussels, frogs, spawn, or fish, the scheduled fine is ten dollars.

h. For violations of section 481A.48 relating to restrictions on game birds and animals, the scheduled fines are as follows:

(1) Out-of-season, the scheduled fine is one hundred dollars.

(2) Over limit, the scheduled fine is one hundred dollars.

(3) Attempt to take, the scheduled fine is fifty dollars.

(4) General waterfowl restrictions, the scheduled fine is fifty dollars.

(a) No federal shotgun, the scheduled fine is fifty dollars.

(b) Unplugged shotgun, the scheduled fine is ten dollars.

(c) Possession of other than steel shot, the scheduled fine is twenty-five dollars.

(d) Early or late shooting, the scheduled fine is twenty-five dollars.

(5) Possession of a prohibited pistol or revolver while hunting deer, the scheduled fine is one hundred dollars.

i. For violations of section 481A.67 relating to general violations of fishing laws, the scheduled fine is twenty-five dollars.

(1) For over limit catch, the scheduled fine is thirty dollars.

(2) For under minimum length or weight, the scheduled fine is twenty dollars.

(3) For out-of-season fishing, the scheduled fine is fifty dollars.

j. For violations of section 481A.73 relating to trotlines and throwlines:

(1) For trotline or throwline violations in legal waters, the scheduled fine is twenty-five dollars.

(2) For trotline or throwline violations in illegal waters, the scheduled fine is fifty dollars.

k. For violations of section 481A.144, subsection 4, or section 481A.145, subsections 4, 5, and 6, relating to minnows:

(1) For general minnow violations, the scheduled fine is twenty-five dollars.

(2) For commercial purposes, the scheduled fine is fifty dollars.

l. For violations of section 481A.87 relating to the taking or possessing of fur-bearing animals out of season:

(1) For red fox, gray fox, or mink, the scheduled fine is one hundred dollars.

(2) For all other furbearers, the scheduled fine is fifty dollars.

m. For violations of section 482.4 relating to gear tags:

(1) For commercial license violations, the scheduled fine is one hundred dollars.

(2) For no gear tags, the scheduled fine is twenty-five dollars.

n. For violations of section 482.11 relating to turtles:

(1) For commercial turtle violations, the scheduled fine is one hundred dollars.

(2) For sport turtle violations, the scheduled fine is fifty dollars.

o. For violations of section 482.12 relating to mussels:

(1) For commercial mussel violations, the scheduled fine is one hundred dollars.

(2) For sport mussel violations, the scheduled fine is fifty dollars.

p. For violations of section 483A.1 relating to licenses and permits, the scheduled fines are as follows:

(1) For a license or permit costing ten dollars or less, the scheduled fine is twenty dollars.

(2) For a license or permit costing more than ten dollars but not more than twenty dollars, the scheduled fine is thirty dollars.

(3) For a license or permit costing more than twenty dollars but not more than forty dollars, the scheduled fine is fifty dollars.

(4) For a license or permit costing more than forty dollars but not more than fifty dollars, the scheduled fine is seventy dollars.

(5) For a license or permit costing more than fifty dollars, the scheduled fine is one hundred dollars.

q. For violations of section 483A.26 relating to false claims for licenses:

(1) For making a false claim for a license by a resident, the scheduled fine is fifty dollars.

(2) For making a false claim for a license by a nonresident, the scheduled fine is one hundred dollars.

r. For violations of section 483A.36 relating to the conveyance of guns:

(1) For conveying an assembled, unloaded gun, the scheduled fine is twenty-five dollars.

(2) For conveying a loaded gun, the scheduled fine is fifty dollars.

4. GINSENG VIOLATIONS. For a violation of section 456A.24, subsection 11, the scheduled fine is one hundred dollars.

5. EURASIAN WATER MILFOIL VIOLATIONS. For violations of section 456A.37, subsection 5, the scheduled fine is one hundred dollars.

6. MISUSE OF PARKS AND PRESERVES.

a. For violations under sections 461A.39, 461A.45, and 461A.50, the scheduled fine is ten dollars.

- b. For violations under sections 461A.40, 461A.43, 461A.46, and 461A.49, the scheduled fine is fifteen dollars.
- c. For violations of section 461A.44, the scheduled fine is fifty dollars.
- d. For violations of section 461A.48, the scheduled fine is twenty-five dollars.

Sec. 4. NEW SECTION. 805.8C MISCELLANEOUS SCHEDULED VIOLATIONS.

1. ENERGY EMERGENCY VIOLATIONS. For violations of an executive order issued by the governor under the provisions of section 473.8, the scheduled fine is fifty dollars.

2. ALCOHOLIC BEVERAGE VIOLATIONS. For violations of section 123.49, subsection 2, paragraph "h", the scheduled fine for a licensee or permittee is one thousand five hundred dollars, and the scheduled fine for a person who is employed by a licensee or permittee is five hundred dollars.

3. SMOKING VIOLATIONS.

a. For violations of section 142B.6, the scheduled fine is twenty-five dollars, and is a civil penalty, and the criminal penalty surcharge under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed. If the civil penalty assessed for a violation of section 142B.6 is not paid in a timely manner, a citation shall be issued for the violation in the manner provided in section 804.1. However, a person under age eighteen shall not be detained in a secure facility for failure to pay the civil penalty. The complainant shall not be charged a filing fee.

b. For violations of section 453A.2, subsection 1, by an employee of a retailer, the scheduled fine is as follows:

- (1) If the violation is a first offense, the scheduled fine is one hundred dollars.
- (2) If the violation is a second offense, the scheduled fine is two hundred fifty dollars.
- (3) If the violation is a third or subsequent offense, the scheduled fine is five hundred dollars.

c. For violations of section 453A.2, subsection 2, the scheduled fine is as follows and is a civil penalty, and the criminal penalty surcharge under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed:

- (1) If the violation is a first offense, the scheduled fine is fifty dollars.
- (2) If the violation is a second offense, the scheduled fine is one hundred dollars.
- (3) If the violation is a third or subsequent offense, the scheduled fine is two hundred fifty dollars.

Sec. 5. CODE EDITOR DIRECTIONS. The Code editor shall make any necessary changes to the Code in order to conform any provisions of the Code with this Act.

Approved May 16, 2001

**CHAPTER 138****PUBLIC UTILITY CROSSINGS — RAILROAD RIGHTS-OF-WAY***S.F. 515*

**AN ACT** providing for the crossing of railroad rights-of-way by public utilities, and providing applicability dates.

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

Section 1. NEW SECTION. 476.27 PUBLIC UTILITY CROSSING — RAILROAD RIGHTS-OF-WAY.

1. DEFINITIONS. As used in this section, unless the context otherwise requires:

a. "Board" means the Iowa utilities board.

b. "Crossing" means the construction, operation, repair, or maintenance of a facility over, under, or across a railroad right-of-way by a public utility.

c. "Direct expenses" includes, but is not limited to, any or all of the following:

(1) The cost of inspecting and monitoring the crossing site.

(2) Administrative and engineering costs for review of specifications; for entering a crossing on the railroad's books, maps, and property records; and other reasonable administrative and engineering costs incurred as a result of the crossing.

(3) Document and preparation fees associated with a crossing, and any engineering specifications related to the crossing.

(4) Damages assessed in connection with the rights granted to a public utility with respect to a crossing.

d. "Facility" means any cable, conduit, wire, pipe, casing pipe, supporting poles and guys, manhole, or other material and equipment, that is used by a public utility to furnish any of the following:

(1) Communications services.

(2) Electricity.

(3) Gas by piped system.

(4) Sanitary and storm sewer service.

(5) Water by piped system.

e. "Public utility" means a public utility as defined in section 476.1, except that, for purposes of this section, "public utility" also includes all mutual telephone companies, municipally owned facilities, unincorporated villages, waterworks, municipally owned waterworks, joint water utilities, rural water districts incorporated under chapter 357A or 504A, cooperative water associations, franchise cable television operators, and persons furnishing electricity to five or fewer persons.

f. "Railroad" or "railroad corporation" means a railroad corporation as defined in section 321.1, which is the owner, operator, occupant, manager, or agent of a railroad right-of-way or the railroad corporation's successor in interest. "Railroad" and "railroad corporation" include an interurban railway.

g. "Railroad right-of-way" means one or more of the following:

(1) A right-of-way or other interest in real estate that is owned or operated by a railroad corporation, the trustees of a railroad corporation, or the successor in interest of a railroad corporation.

(2) A right-of-way or other interest in real estate that is occupied or managed by or on behalf of a railroad corporation, the trustees of a railroad corporation, or the successor in interest or<sup>1</sup> a railroad corporation, including an abandoned railroad right-of-way that has not otherwise reverted pursuant to chapter 327G.

(3) Another interest in a former railroad right-of-way that has been acquired or is operated by a land management company or similar entity.

h. "Special circumstances" means either or both of the following:

<sup>1</sup> The word "of" probably intended

(1) The existence of characteristics of a segment of railroad right-of-way or of a proposed utility facility that increase the direct expenses associated with a proposed crossing.

(2) A proposed crossing that involves a significant and imminent likelihood of danger to the public health or safety, or that is a serious threat to the safe operations of the railroad, or to the current use of the railroad right-of-way, necessitating additional terms and conditions associated with the crossing.

2. RULEMAKING AND STANDARD CROSSING FEE. The board, in consultation with the state department of transportation, shall adopt rules pursuant to chapter 17A prescribing the terms and conditions for a crossing. The rules shall provide that any crossing be consistent with the public convenience and necessity, and reasonable service to the public. The rules, at a minimum, shall address the following:

a. The terms and conditions applicable to a crossing including, but not limited to, the following:

(1) Notification required prior to the commencement of any crossing activity.

(2) A requirement that the railroad and the public utility each maintain and repair the person's own property within the railroad right-of-way, and bear responsibility for each person's own acts and omissions; except that the public utility shall be responsible for any bodily injury or property damage that typically would be covered under a standard railroad protective liability insurance policy.

(3) The amount and scope of insurance or self-insurance required to cover risks associated with a crossing.

(4) A procedure to address the payment of costs associated with the relocation of public utility facilities within the railroad right-of-way necessary to accommodate railroad operations.

(5) Terms and conditions for securing the payment of any damages by the public utility before it proceeds with a crossing.

(6) Immediate access to a crossing for repair and maintenance of existing facilities in case of emergency.

(7) Engineering standards for utility facilities crossing railroad rights-of-way.

(8) Provision for expedited crossing, absent a claim of special circumstances, after payment by the public utility of the standard crossing fee, if applicable, and submission of completed engineering specifications to the railroad.

(9) Other terms and conditions necessary to provide for the safe and reasonable use of a railroad right-of-way by a public utility, and consistent with rules adopted by the board, including any complaint procedures adopted by the board to enforce the rules.

b. Unless otherwise agreed by the parties and subject to subsection 4, a public utility that locates its facilities within the railroad right-of-way for a crossing, other than a crossing along the public roads of the state pursuant to chapter 477, shall pay the railroad a one-time standard crossing fee of seven hundred fifty dollars for each crossing. The standard crossing fee shall be in lieu of any license or any other fees or charges to reimburse the railroad for the direct expenses incurred by the railroad as a result of the crossing. The public utility shall also reimburse the railroad for any actual flagging expenses associated with a crossing in addition to the standard crossing fee.

3. POWERS NOT LIMITED. a. Notwithstanding subsection 2, rules adopted by the board shall not prevent a railroad and a public utility from otherwise negotiating the terms and conditions applicable to a crossing or the resolution of any disputes relating to such crossing.

b. Notwithstanding paragraph "a", neither this subsection nor this section shall impair the authority of a public utility to secure crossing rights by easement pursuant to the exercise of the power of eminent domain.

4. SPECIAL CIRCUMSTANCES. a. A railroad or public utility that believes special circumstances exist for a particular crossing may petition the board for relief.

(1) If a petition for relief is filed, the board shall determine whether special circumstances

exist that necessitate either a modification of the direct expenses to be paid, or the need for additional terms and conditions.

(2) The board may make any necessary findings of fact and determinations related to the existence of special circumstances, as well as any relief to be granted.

(3) A determination of the board, except for a determination on the issue of damages for the rights granted to a public utility with respect to a crossing, shall be considered final agency action subject to judicial review under chapter 17A.

(4) The board shall assess the costs associated with a petition for relief equitably against the parties.

b. A railroad or public utility that claims to be aggrieved by a determination of the board on the issue of damages for the rights granted to a public utility with respect to a crossing may seek judicial review as provided in subsection 5.

5. APPEALS. a. A railroad or public utility that claims to be aggrieved by the board's determination of damages for rights granted to a public utility may appeal the board's determination to the district court in the same manner as provided in section 6B.18 and sections 6B.21 through 6B.23. In any appeal of the determination of damages, the public utility shall be considered the applicant, and the railroad shall be considered the condemnee. References in sections 6B.18 and 6B.21 to "compensation commission" mean the board as defined in this section, or appointees of the board.

b. An appeal of any determination of the board other than the issues of damages for rights granted to a public utility shall be pursuant to chapter 17A.

6. AUTHORITY TO CROSS — EMERGENCY RELIEF. Pending board resolution of a claim of special circumstances raised in a petition, a public utility may, upon securing the payment of any damages, and upon submission of completed engineering specifications to the railroad, proceed with a crossing in accordance with the rules adopted by the board, unless the board, upon application for emergency relief, determines that there is a reasonable likelihood that either of the following conditions exist:

a. That the proposed crossing involves a significant and imminent likelihood of danger to the public health or safety.

b. That the proposed crossing is a serious threat to the safe operations of the railroad or to the current use of the railroad right-of-way.

If the board determines that there is a reasonable likelihood that the proposed crossing meets either condition, then the board shall immediately intervene to prevent the crossing until a factual determination is made.

7. CONFLICTING PROVISIONS. Notwithstanding any provision of the Code to the contrary, this section shall apply in all crossings of railroad rights-of-way involving a public utility as defined in this section, and shall govern in the event of any conflict with any other provision of law.

Sec. 2. APPLICABILITY. This Act applies to the following:

1. A crossing commenced prior to July 1, 2001, if an agreement concerning the crossing has expired or is terminated.

2. A crossing commenced on or after July 1, 2001.

Approved May 16, 2001

**CHAPTER 139****TAXATION OF METHANE GAS AND OTHER GAS CONVERSION PROPERTY**

S.F. 520

**AN ACT** relating to the property tax exemption for methane gas and other gas conversion property and providing a retroactive applicability date and an effective date.

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

Section 1. Section 427.1, subsection 29, unnumbered paragraph 2, Code 2001, is amended to read as follows:

For purposes of this subsection, "methane gas conversion property" means personal property, real property, and improvements to real property, and machinery, equipment, and computers assessed as real property pursuant to section 427A.1, subsection 1, paragraphs "e" and "j", used in an operation connected with, or in conjunction with, a publicly owned sanitary landfill to collect methane gas or other gases produced as a by-product of waste decomposition and to convert the gas to energy, or to collect waste that would otherwise be collected by, or deposited with, a publicly owned sanitary landfill in order to decompose the waste to produce methane gas or other gases and to convert the gas to energy. However, property used to decompose the waste and convert the waste to gas is not eligible for this exemption.

Sec. 2. **FILING OF CLAIMS.** As a result of the retroactive application of this Act, a taxpayer may file a claim for credit of electric generation tax with the appropriate chief financial officer for the 1998, 1999, 2000, and 2001 tax years, no later than July 1, 2001. In order to qualify for a credit of electric generation tax, the taxpayer must also file a claim for property tax exemption under section 427.1, subsection 29, for assessment years 1998, 1999, 2000, and 2001, by June 1, 2001, and be approved by the appropriate assessing authority. If a claim for credit is allowed for any of those tax years and the electric generation taxes remain unpaid for any of those tax years, the amount of electric generation taxes due, including interest, penalty, and other additions to the taxes, shall be credited to the taxpayer. If a claim for electric generation tax credit or for property tax exemption for any one of those years is filed pursuant to this Act and is denied by the city or county to which the tax is owed, the claimant may, within fifteen days of the denial, apply to the director of revenue and finance for a hearing on the claim.

Sec. 3. **IMPLEMENTATION OF ACT.** Section 25B.7 shall not apply to this Act.

Sec. 4. **EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISIONS.** This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1998, for purposes of taxes levied pursuant to section 437A.6. Those taxpayers who would not be subject to tax under section 437A.6 had the taxpayer been deemed exempt from property tax under section 427.1, subsection 29, shall be eligible to claim a credit for electric generation taxes pursuant to section 2 of this Act. Such taxpayer shall be deemed exempt from property taxation for purposes of section 427.1, subsection 29, but the taxpayer shall not be eligible for a refund or abatement of property taxes.

Approved May 16, 2001

**CHAPTER 140****DISTRIBUTION OF ESTATES BY AFFIDAVIT — TAXATION****S.F. 523**

**AN ACT** relating to the size of an estate that may be distributed by affidavit, making related inheritance tax changes, and providing for the Act's applicability.

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

Section 1. Section 450.4, subsection 1, Code 2001, is amended to read as follows:

1. When the entire estate of the decedent does not exceed the sum of ~~ten~~ twenty-five thousand dollars after deducting the liabilities, as defined in this chapter.

Sec. 2. Section 450.44, Code 2001, is amended to read as follows:

450.44 REMAINDERS — VALUATION.

When a person whose estate over and above the amount of that person's liabilities, as defined in this chapter, exceeds the sum of ~~ten~~ twenty-five thousand dollars, bequeaths, devises, or otherwise transfers real property to or for the use of persons exempt from the tax imposed by this chapter, during life or for a term of years and the remainder to persons not thus exempt, this property, upon the determination of the estate for life or years, shall be valued at its then actual market value from which shall be deducted the value of any improvements on it made by the person who owns the remainder interest during the time of the prior estate, to be determined as provided in section 450.37, subsection 1, paragraph "a", and the tax on the remainder shall be paid by the person who owns the remainder interest as provided in section 450.46.

Sec. 3. Section 633.356, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

When the gross value of the decedent's personal property does not exceed ~~ten~~ twenty-five thousand dollars and there is no real property or the real property passes to ~~a surviving spouse~~ persons exempt from inheritance tax pursuant to section 450.9 as joint ~~tenant~~ tenants with right of survivorship, and if forty days have elapsed since the death of the decedent, the successor of the decedent as defined in subsection 2 may, by filing an affidavit prepared pursuant to subsection 3, and without procuring letters of appointment, do any of the following with respect to one or more particular items of personal property:

Sec. 4. Section 633.356, subsection 3, paragraph c, Code 2001, is amended to read as follows:

c. That the gross value of the decedent's personal property does not exceed ~~ten~~ twenty-five thousand dollars and there is no real property or the real property passes to ~~a surviving spouse~~ persons exempt from inheritance tax pursuant to section 450.9 as joint ~~tenant~~ tenants with right of survivorship.

Sec. 5. **APPLICABILITY.** This Act applies to estates of decedents dying on or after July 1, 2001.

Approved May 16, 2001



## CHAPTER 141

### ECONOMIC DEVELOPMENT PROGRAMS — INVESTMENT TAX CREDITS — ENTERPRISE ZONES

H.F. 349

**AN ACT** relating to the enterprise zone program and providing effective date and retroactive applicability date provisions.

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

Section 1. Section 15.333, subsection 1, Code 2001, is amended to read as follows:

1. An eligible business may claim a corporate tax credit up to a maximum of ten percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business under the program. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. If the business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust. For purposes of this section, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, and the cost of improvements made to real property which is used in the operation of the eligible business ~~and which receives a partial property tax exemption for the actual value added under section 15.332.~~

Sec. 2. Section 15E.193B, subsection 2, Code 2001, is amended to read as follows:

2. An eligible housing business under this section includes a housing developer, housing contractor, or nonprofit organization that builds or rehabilitates a minimum of four single-family homes ~~with a value, after completion of the building or rehabilitation, not exceeding one hundred twenty thousand dollars for each home~~ located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units ~~with a total value per unit, after completion of the building or rehabilitation, not exceeding one hundred twenty thousand dollars~~ located in that part of a city or county in which there is a designated enterprise zone.

Sec. 3. Section 15E.193B, subsection 6, paragraph a, Code 2001, is amended to read as follows:

a. An eligible housing business may claim a tax credit up to a maximum of ten percent of the new investment which is directly related to the building or rehabilitating of a minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone. The new investment that may be used to compute the tax credit shall not exceed the new investment used for the first one hundred forty thousand dollars of value for each single-family home or for each unit of a multiple dwelling unit building containing three or more units. The tax credit may be used to reduce the tax liability imposed under chapter 422, division II, III, or V. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. If the business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may

claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

Sec. 4. Section 15E.193B, subsection 6, paragraph b, Code 2001, is amended to read as follows:

b. Sales, services, and use tax refund for taxes paid by an eligible business including an eligible business acting as a contractor or subcontractor, as provided in section 15.331A.

Sec. 5. NEW SECTION. 15E.193C ELIGIBLE DEVELOPMENT BUSINESS.

1. A development business qualifying under this section is eligible to receive incentives and assistance only as provided in this section. Sections 15E.193, 15E.193B, and 15E.196 do not apply to an eligible development business qualifying under this section.

2. An eligible development business includes a developer or development contractor that constructs, expands, or rehabilitates a building space with a minimum capital investment of at least five hundred thousand dollars in that part of a city or county in which there is a designated enterprise zone. An eligible development business is eligible for one, but not both, of the following exemptions to the capital investment requirements:

a. For an eligible development business purchasing a vacant building suitable for industrial use, the fair market value of the building and land, not to exceed two hundred fifty thousand dollars, as determined by the local enterprise zone commission, shall be deducted from the capital investment requirement.

b. For an eligible development business that rehabilitates a building space that has been in an enterprise zone for at least five years, the fair market value as established by an appraisal of the building, not to exceed two hundred fifty thousand dollars, shall be deducted from the capital investment requirement.

3. Upon completion of the construction, expansion, or rehabilitation project by the eligible development business, the building space shall not be occupied by a retail business.

4. An eligible development business shall complete its construction, expansion, or rehabilitation within three years from the time the eligible development business receives approval from the department. The failure to complete construction, expansion, or rehabilitation within three years shall result in the eligible development business becoming ineligible and subject to the repayment requirements and penalties provided in subsection 8.

5. Prior to applying for assistance under this section, an eligible development business shall enter into an agreement with at least one business for purposes of locating the business in all or a portion of the building space for a period of at least five years.

6. An eligible development business shall provide the enterprise zone commission with all of the following information:

a. The long-term strategic plan for the development business which shall include infrastructure needs and a copy of any agreement entered into by the eligible development business as required under subsection 5.

b. Information relating to the benefits the development business will bring to the area.

c. Examples of why the development business should be considered or would be considered a good business enterprise.

d. An affidavit that the development business has not, within the last five years, violated state or federal environmental and worker safety statutes, rules, and regulations or if such violation has occurred that there were mitigating circumstances or the violations did not seriously affect public health or safety or the environment.

7. An eligible development business, which has been approved to receive incentives and assistance by the department of economic development pursuant to section 15E.195, shall be eligible to receive all of the following incentives and assistance for a period not to exceed ten years:

a. An eligible development business may claim a tax credit up to a maximum of ten percent of the new investment that is directly related to the construction, expansion, or rehabilitation of building space to be used for manufacturing, processing, cold storage,

distribution, or office facilities. For purposes of this section, "new investment" includes the purchase price of land and the cost of improvements made to real property. The tax credit may be claimed by an eligible development business for the tax year in which the construction, expansion, or rehabilitation is completed. The tax credit may be used to reduce the tax liability imposed under chapter 422, division II, III, or V or chapter 432. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. If the business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

b. Sales, services, and use tax refund, as provided in section 15.331A.

c. The county or city for which an eligible enterprise zone is certified may exempt from all property taxation all or a portion of the value added to the property upon which an eligible development business constructs, expands, or rehabilitates property in an enterprise zone. The amount of value added for purposes of this<sup>1</sup> shall be the amount of the increase in assessed valuation of the property following the construction, expansion, or rehabilitation by the development business in the enterprise zone. If an exemption provided pursuant to this<sup>2</sup> is made applicable to only a portion of the property within an enterprise zone, the definition of that subset of eligible property must be by uniform criteria that further some planning objective established by the city or county enterprise zone commission and approved by the city or county. The exemption may be allowed for a period not to exceed ten years beginning the year the eligible development business enters into an agreement with the county or city to construct, expand, or rehabilitate property in an enterprise zone.

8. If a development business has received incentives or assistance under this section and fails to maintain the requirements of this section to be an eligible development business, the business is subject to repayment of all or a portion of the incentives and assistance that it has received. The department of revenue and finance shall have the authority to recover the value of state taxes or incentives provided under this section. The value of state incentives provided under this section includes applicable interest and penalties. The department of economic development and the city and county, as applicable, shall enter into an agreement with the business specifying the method for determining the amount of incentives or assistance paid which will be repaid in the event of failure to maintain the requirements of this section. In addition, a business that fails to maintain the requirements of this section shall not receive incentives or assistance for each year during which the business is not in compliance.

9. The department of economic development and the department of revenue and finance shall each adopt rules pursuant to chapter 17A to jointly administer this section.

10. An eligible business under section 15E.193 is not eligible for incentives and assistance listed in section 15E.196 if the property is owned, or was previously owned, by an approved development business that has received incentives and assistance under this section 15E.193C.

11. If, within five years of the completion of a construction, expansion, or rehabilitation project, the development business, or its successor, sells or leases any space to any retail business, the development business shall proportionally refund any tax credits, refunds, or exemptions which were claimed under this section.

Sec. 6. Section 15E.195, Code 2001, is amended to read as follows:

**15E.195 ENTERPRISE ZONE COMMISSION.**

1. A county which designates an enterprise zone pursuant to section 15E.194, subsection 1, and in which an eligible enterprise zone is certified shall establish an enterprise zone commission to review applications from qualified businesses located within or requesting to locate within an enterprise zone designated pursuant to section 15E.194, subsection 1, to

<sup>1</sup> According to enrolled Act; this "paragraph" probably intended

<sup>2</sup> According to enrolled Act; this "paragraph" probably intended

receive incentives or assistance as provided in section 15E.196. The enterprise zone commission shall also review applications from qualified housing businesses requesting to receive incentives or assistance as provided in section 15E.193B. The enterprise zone commission shall also review applications from qualified development businesses requesting to receive incentives or assistance as provided in section 15E.193C. The commission shall consist of nine members. Five of these members shall consist of one representative of the board of supervisors, one member with economic development expertise chosen by the department of economic development, one representative of the county zoning board, one member of the local community college board of directors, and one representative of the local workforce development center. These five members shall select the remaining four members. If the enterprise zone consists of an area meeting the requirements for eligibility for an urban or rural enterprise community under Title XIII of the federal Omnibus Budget Reconciliation Act of 1993, one of the remaining four members shall be a representative of that community. A county shall have only one enterprise zone commission to review applications for incentives and assistance for businesses located within or requesting to locate within a certified enterprise zone designated pursuant to section 15E.194, subsection 1.

2. A city with a population of twenty-four thousand or more which designates an enterprise zone pursuant to section 15E.194, subsection 2, and in which an eligible enterprise zone is certified shall establish an enterprise zone commission to review applications from qualified businesses located within or requesting to locate within an enterprise zone to receive incentives or assistance as provided in section 15E.196. The enterprise zone commission shall review applications from qualified housing businesses requesting to receive incentives or assistance as provided in section 15E.193B. The enterprise zone commission shall also review applications from qualified development businesses requesting to receive incentives or assistance as provided in section 15E.193C. The commission shall consist of nine members. Six of these members shall consist of one representative of an international labor organization, one member with economic development expertise chosen by the department of economic development, one representative of the city council, one member of the local community college board of directors, one member of the city planning and zoning commission, and one representative of the local workforce development center. These six members shall select the remaining three members. If the enterprise zone consists of an area meeting the requirements for eligibility for an urban enterprise community under Title XIII of the federal Omnibus Budget Reconciliation Act of 1993, one of the remaining three members shall be a representative of that community. If a city contiguous to the city designating the enterprise zone is included in an enterprise zone, a representative of the contiguous city, chosen by the city council, shall be a member of the commission. A city in which an eligible enterprise zone is certified shall have only one enterprise zone commission. If a city has established an enterprise zone commission prior to the effective date of this Act, the city may petition to the department of economic development to change the structure of the existing commission.

3. The commission may adopt more stringent requirements, including requirements related to compensation and benefits, for a business to be eligible for incentives or assistance than provided in sections 15E.193, ~~and 15E.193B, and 15E.193C.~~ The commission may develop as an additional requirement that preference in hiring be given to individuals who live within the enterprise zone. The commission shall work with the local workforce development center to determine the labor availability in the area. The commission shall examine and evaluate building codes and zoning in the enterprise zone and make recommendations to the appropriate governing body in an effort to promote more affordable housing development.

4. If the enterprise zone commission determines that a business qualifies and is eligible to receive incentives or assistance as provided in ~~either section 15E.193B or section, 15E.193C,~~ or 15E.196, the commission shall submit an application for incentives or assistance to the department of economic development. The department may approve, defer, or deny the application.

5. In making its decision, the commission or department shall consider the impact of the eligible business on other businesses in competition with it and compare the compensation package of businesses in competition with the business being considered for incentives or assistance. The commission or department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for incentives or assistance. The commission or department shall also make a good faith effort to determine the probability that the proposed incentives or assistance will displace employees of existing businesses. In determining the impact on businesses in competition with the business seeking incentives or assistance, jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created.

However, if the commission or department finds that an eligible business has a record of violations of the law, including but not limited to environmental and worker safety statutes, rules, and regulations, over a period of time that tends to show a consistent pattern, the eligible business shall not qualify for incentives or assistance under section 15E.193B, ~~15E.193C~~, or ~~section~~ 15E.196, unless the commission or department finds that the violations did not seriously affect public health or safety or the environment, or if it did that there were mitigating circumstances. In making the findings and determinations regarding violations, mitigating circumstances, and whether an eligible business is eligible for incentives or assistance under section 15E.193B, ~~15E.193C~~, or ~~section~~ 15E.196, the commission or department shall be exempt from chapter 17A. If requested by the commission or department, the business shall provide copies of materials documenting the type of violation, any fees or penalties assessed, court filings, final disposition of any findings and any other information which would assist the commission or department in assessing the nature of any violation.

6. A business that is approved to receive incentives or assistance shall, for the length of its designation as an enterprise zone business, certify annually to the county or city, as applicable, and the department of economic development its compliance with the requirements of ~~either~~ section 15E.193, ~~or section~~ 15E.193B, ~~or~~ 15E.193C.

Sec. 7. Section 15E.196, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 7. A business eligible to receive incentives and assistance described in this section and located in a building for which incentives and assistance are or have been claimed by an approved development business under section 15E.193C is not eligible to receive the following incentives and assistance:

a. An investment tax credit under subsection 3 for the portion of the investment tax credit that is claimed on the purchase price of land or improvements to real property by an approved development business pursuant to section 15E.193C, subsection 7, paragraph "a".

b. Sales, services, and use tax refund under subsection 2 that is made pursuant to section 15E.193C, subsection 7, paragraph "b".

c. A property tax exemption under subsection 5 for improvements to real property that are exempted from property taxation pursuant to section 15E.193C, subsection 7, paragraph "c".

Sec. 8. **RETROACTIVE APPLICABILITY.**

1. Section 4 of this Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1998.

2. With the exception of section 4 of this Act, this Act is retroactively applicable to January 1, 2001, and is applicable on and after that date.

Approved May 16, 2001

## CHAPTER 142

### COOPERATIVE ASSOCIATIONS — REVERSION OF DISBURSEMENTS

H.F. 564

**AN ACT** providing for the reversion of dividends and distributions by certain cooperative associations.

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

Section 1. Section 490.140, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 3A. “Cooperative association” means an entity which is structured and operated on a cooperative basis pursuant to 26 U.S.C. § 1381(a) and which meets the definitional requirements of an association as provided in 12 U.S.C. § 1141(j)(a) or 7 U.S.C. § 291.

Sec. 2. **NEW SECTION.** 490.629 REVERSION OF DISBURSEMENTS TO COOPERATIVE ASSOCIATIONS.

1. As used in this section, “disbursement” means an amount of any distribution or any other increment or sum realized or accruing from stock or other equity interest in a cooperative association organized under this chapter.

2. Once a person’s stock or other equity interest in a cooperative association organized under this chapter is deemed abandoned under section 556.5, any disbursement held by the cooperative association for or owing to the person shall be subject to the same requirements as provided in section 499.30A that applies to a cooperative association organized under chapter 499, including all of the following:

- a. The retention of the disbursement in a reversion fund established by the cooperative association or the delivery of the disbursement to the treasurer of state.
- b. The payment of the disbursement to a person filing a claim with the cooperative association who asserts an interest in the disbursement.
- c. The forfeiture of the disbursement to the cooperative association, and the use of the forfeited disbursement by the cooperative association in order to teach and promote cooperation or provide for economic development, including creating economic opportunities for its shareholders.

Sec. 3. **NEW SECTION.** 499.30A REVERSION OF DISBURSEMENTS.

1. As used in this section, “disbursement” means an amount of any dividend, patronage dividend, distribution including earnings distribution, or any other increment or sum realized or accruing from a membership or stock, subscription, or other equity interest in a cooperative association.

2. Once a person’s membership or stock, subscription, or other member’s equity in a cooperative association is deemed abandoned under section 556.5, the cooperative association may retain any disbursement held by the cooperative association for or owing to the person. The cooperative association may also deliver the disbursement to the treasurer of state for disposition as abandoned property pursuant to sections 556.5 and 556.11.

3. If the cooperative association elects to retain the disbursement under this section, the disbursement shall be deposited into a reversion fund established by the cooperative association.

4. Any disbursement that is retained by the cooperative association shall be forfeited to the cooperative association if the cooperative association publishes at least one notice of the abandoned property in a publication regularly distributed to its membership or in a newspaper having a general circulation in the county where the cooperative association is located. The notice shall include all of the following:

- a. The name and address of the cooperative association.

b. The name of the person who has an interest in the disbursement according to the records of the cooperative association.

c. A brief description of the type of disbursement retained by the cooperative association.

d. A statement that the disbursement will be forfeited to the cooperative association unless the person files a claim for the disbursement within the period provided for in this section.

5. a. Subject to this subsection, a person asserting an interest in the disbursement may file a claim for it with the cooperative association in a manner and according to procedures required by the cooperative association. If a person is entitled to an abandoned membership, stock, subscription, or other interest as provided in section 556.20 or 556.21, the cooperative association shall also pay the person the disbursement deposited in the reversion fund that is realized or accrued from the membership or stock, subscription, or other interest.

b. If a person has not filed a claim for the disbursement within six months after the first date that the notice of abandoned property is first published as provided in this section, the disbursement shall be forfeited to the cooperative association.

6. The disbursements deposited into the reversion fund that are forfeited to the cooperative association shall be used as provided in this subsection. The cooperative association may authorize the payment of forfeited disbursements to persons claiming interests in forfeited disbursements as provided in the cooperative association's articles of incorporation or bylaws. Otherwise, forfeited disbursements shall be used as the directors deem suitable for any of the following purposes:

a. Teaching and promoting cooperation. The directors may deposit the amounts of disbursements into the education fund as provided in section 499.30.

b. Economic development including private or joint public and private investments involving the creation of economic opportunities for its members or the retention of existing sources of income that would otherwise be lost.

Sec. 4. Section 556.1, subsection 2, Code 2001, is amended to read as follows:

2. "Business association" means a corporation, cooperative association, joint stock company, business trust, investment company, partnership, limited liability company, trust company, mutual fund, or other business entity consisting of one or more persons, whether or not for profit.

Sec. 5. Section 556.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Cooperative association" means an entity which is structured and operated on a cooperative basis, including an association of persons organized under chapter 497, 498, or 499; an entity composed of entities organized under those chapters; a cooperative corporation organized under chapter 501; a cooperative association organized under chapter 490; or any other entity recognized pursuant to 26 U.S.C. § 1381(a) which meets the definitional requirements of an association as provided in 12 U.S.C. § 1141(j)(a) or 7 U.S.C. § 291.

Sec. 6. Section 556.5, subsection 4, Code 2001, is amended to read as follows:

4. At the time an interest is deemed abandoned under this section, the following shall apply:

a. Except as provided in paragraph "b", any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously deemed abandoned, is deemed abandoned.

b. A disbursement held by a cooperative association shall not be deemed abandoned under this chapter if the disbursement is retained by a cooperative association organized under chapter 490 as provided in section 490.629 or by a cooperative association organized under chapter 499 as provided in section 499.30A.

**CHAPTER 143****COUNTY LEASE OR LEASE-PURCHASE CONTRACTS AND RECORDS,  
FEES, AND TAX CREDITS AFFECTING REAL PROPERTY***H.F. 713*

**AN ACT** relating to the administration of county government by providing for the issuance of certain lease or lease-purchase contracts, the recording of certain property transfers, the striking of a requirement to record returns of marriage with real estate recordings, the imposition of a real estate installment contract fee, and changing the date for reporting and paying agricultural land tax credits and family farm tax credits.

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

Section 1. Section 331.301, subsection 10, paragraph e, subparagraph (1), Code 2001, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** However, if the principal amount of a lease or lease-purchase contract pursuant to this subparagraph (1) is less than twenty-five thousand dollars, the board may authorize the lease or lease-purchase contract without following the authorization procedures of section 331.443.

Sec. 2. Section 425A.5, Code 2001, is amended to read as follows:

**425A.5 COMPUTATION BY COUNTY AUDITOR.**

The family farm tax credit allowed each year shall be computed as follows: On or before ~~March~~ April 1, the county auditor shall list by school districts all tracts of agricultural land which are entitled to credit, the taxable value for the previous year, the budget from each school district for the previous year, and the tax rate determined for the general fund of the school district in the manner prescribed in section 444.3 for the previous year, and if the tax rate is in excess of five dollars and forty cents per thousand dollars of assessed value, the auditor shall multiply the tax levy which is in excess of five dollars and forty cents per thousand dollars of assessed value by the total taxable value of the agricultural land entitled to credit in the school district, and on or before ~~March~~ April 1, certify the total amount of credit and the total number of acres entitled to the credit to the department of revenue and finance.

Sec. 3. Section 426.6, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The agricultural land tax credit allowed each year shall be computed as follows: On or before ~~the first of June~~ April 1, the county auditor shall list by school districts all tracts of agricultural lands which they are entitled to credit, together with the taxable value for the previous year, together with the budget from each school district for the previous year, and the tax rate determined for the general fund of the district in the manner prescribed in section 444.3 for the previous year, and if such tax rate is in excess of five dollars and forty cents per thousand dollars of assessed value, the auditor shall multiply the tax levy which is in excess of five dollars and forty cents per thousand dollars of assessed value by the total taxable value of the agricultural lands entitled to credit in the district, and on or before ~~the first of June~~ April 1, certify the amount to the department of revenue and finance.

Sec. 4. Section 426.7, Code 2001, is amended to read as follows:

**426.7 WARRANTS DRAWN BY DIRECTOR.**

After receiving from the county auditors the certifications provided for in section 426.6, and during the following fiscal year, the director of revenue and finance shall draw warrants on the agricultural land credits fund created in section 426.1, payable to the county treasurers in the amount certified by the county auditors of the respective counties and mail the warrants to the county auditors on ~~August~~ July 15 of each year taking into consideration the relative budget and cash position of the state resources. However, if the agricultural land credits fund is insufficient to pay in full the total of the amounts certified to the director of



revenue and finance, the director shall prorate the fund to the county treasurers and notify the county auditors of the pro rata percentage on or before ~~August 1~~ June 15.

Sec. 5. Section 558.57, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The recorder shall not record any deed, real estate installment contract, or other instrument unconditionally conveying real estate until the proper entries have been made upon the transfer books in the auditor's office, and endorsement made upon the deed, real estate installment contract, or other instrument properly dated and officially signed, in substantially the following form:

Sec. 6. Section 558.58, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

At the time of filing a deed, real estate installment contract, or other instrument mentioned in section 558.57, the recorder shall collect from the person filing the deed, real estate installment contract, or instrument the recording fee provided by law and the auditor's transfer fee, except as provided in subsection 2. The recorder shall deliver the deed, real estate installment contract, or instrument to the county auditor, after endorsing upon the instrument the following:

Sec. 7. Section 595.5, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 8. Section 598.21, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Upon every judgment of annulment, dissolution, or separate maintenance the court shall divide the property of the parties and transfer the title of the property accordingly, including ordering the parties to execute a quitclaim deed or ordering a change of title for tax purposes and delivery of the deed or change of title to the county recorder of the county in which each parcel of real estate is located. The county recorder shall record each quitclaim deed or change of title and shall collect the fee specified in section 331.507, subsection 2, paragraph "a", and the fee specified in section 331.604, subsection 1. The court may protect and promote the best interests of children of the parties by setting aside a portion of the property of the parties in a separate fund or conservatorship for the support, maintenance, education and general welfare of the minor children. The court shall divide all property, except inherited property or gifts received by one party, equitably between the parties after considering all of the following:

Approved May 16, 2001

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## CHAPTER 144

### IOWA HERITAGE LICENSE PLATE FEES — ALLOCATION

H.F. 724

**AN ACT** relating to the allocation of special fees collected from the sale of Iowa heritage license plates.

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

Section 1. Section 303.9A, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. ~~Sixty five~~ Ninety percent shall be retained by the state historical society and used to

maintain and expand Iowa's history curriculum, to provide teacher training in Iowa history, and to support museum exhibits, historic sites, and adult education programs.

Sec. 2. Section 321.34, subsection 21, paragraph c, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The special fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.24, and prior to the crediting of revenues to the road use tax fund under section 423.24, subsection 1, paragraph "b", the treasurer of state shall credit monthly to the Iowa heritage fund created under section 303.9A the amount of the special fees collected in the previous month for the Iowa heritage plates, ~~from those revenues in the following manner:~~

Sec. 3. Section 321.34, subsection 21, paragraph c, subparagraphs (1) and (2), Code 2001, are amended by striking the subparagraphs.

Approved May 16, 2001

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## CHAPTER 145

### UTILITY REPLACEMENT TAX

H.F. 731

**AN ACT** regarding certain changes relating to the utility replacement tax, and providing for the Act's applicability.

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

Section 1. Section 437A.3, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

"Assessed value" means the base year assessed value, as adjusted by section 437A.19, subsection 2. "Base year assessed value", for a taxpayer other than an electric company, natural gas company, or electric cooperative, means the value attributable to property identified in section 427A.1, subsection 1, paragraph "h", certified by the department of revenue and finance to the county auditors for the assessment date of January 1, 1997, and the value attributable to property identified in section 427A.1 and section 427B.17, subsection 5, as certified by the local assessors to the county auditors for the assessment date of January 1, 1997, provided, that for a taxpayer subject to section 437A.17A, such value shall be the value certified by the department of revenue and finance and local assessors to the county auditors for the assessment date of January 1, 1998. However, "base year assessed value", for purposes of property of a taxpayer that is a municipal utility, if the property is not a major addition, and the property was initially assessed to the taxpayer as of January 1, 1998, and is not located in a county where the taxpayer had property that was assessed for purposes of this chapter as of January 1, 1997, means the value attributable to such property for the assessment date of January 1, 1998.

Sec. 2. Section 437A.3, subsection 17, paragraph d, Code 2001, is amended to read as follows:

d. Any ~~operating~~ property described in section 437A.16 in this state by a person not previously subject to taxation under this chapter.

Sec. 3. Section 437A.6, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 4. In lieu of the replacement generation tax imposed in subsection 1, a replacement generation tax of one thousand eight hundred forty-seven ten-thousandths of a cent per kilowatt-hour of electricity generated within this state during the tax year is imposed on every hydroelectric generating power plant with a generating capacity of one hundred megawatts or greater.

NEW SUBSECTION. 5. In lieu of the replacement generation tax imposed in subsection 1, a replacement generation tax of one thousand ninety-nine ten-thousandths of a cent per kilowatt-hour of electricity generated within this state during the tax year is imposed on every electric company which owns a joint interest in an electric power generating plant in this state and which has a joint interest in less than five pole miles of transmission lines in this state.

Sec. 4. Section 437A.7, subsection 2, paragraph c, Code 2001, is amended to read as follows:

c. Any electric cooperative which owns, leases, or owns and leases in total ~~more than fifty pole miles and~~ less than seven hundred fifty pole miles of transmission lines in this state. Chapter 437 shall apply to such electric cooperatives.

Sec. 5. Section 437A.8, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Each taxpayer, on or before ~~February 28~~ March 31 following a tax year, shall file with the director a return including, but not limited to, the following information:

Sec. 6. Section 437A.8, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Each taxpayer subject to a municipal transfer replacement tax, on or before ~~February 28~~ March 31 following a tax year, shall file with the chief financial officer of each city located within an electric or natural gas competitive service area served by a municipal utility as of January 1, 1999, a return including, but not limited to, the following information:

Sec. 7. Section 437A.8, subsection 4, unnumbered paragraphs 2 and 3, Code 2001, are amended to read as follows:

If a distribution electric cooperative member or a municipal utility purchasing member subject to section 437A.15, subsection 3, paragraph "b", does not make timely payment of the correct amount of replacement tax to the generation and transmission electric cooperative ~~and the generation and transmission electric cooperative so notifies the director and the appropriate county treasurer within fifteen days after August 1, and timely remits to the county treasurer the amounts of replacement tax received by the generation and transmission electric cooperative in accordance with section 437A.15, subsection 3, paragraph "b", the generation and transmission electric cooperative shall not be liable for the unpaid replacement tax due from the distribution electric cooperative member or municipal utility purchasing member. The generation and transmission electric cooperative shall also not be liable for a special utility property tax levy, if any, and shall not be entitled to a tax credit, if any, attributable to the unpaid replacement tax. The county treasurer and the director shall enforce payment of the replacement tax against the appropriate distribution electric cooperative member or municipal utility purchasing member pursuant to sections 437A.9 through 437A.13. The county treasurer shall enforce payment of the special utility property tax levy, if any, against the appropriate distribution electric cooperative member or municipal utility purchasing member.~~

~~If a generation and transmission electric cooperative receives some, but not all, of the required payment from a distribution electric cooperative member or a municipal utility purchasing member, the generation and transmission electric cooperative shall notify the director in writing within fifteen ten days after August 1~~ September 10. The director shall then notify the generation and transmission electric cooperative in writing within five days

after delivery of notice to the director of the paid amount to be remitted to the appropriate county treasurer and shall also notify the county treasurer. The generation and transmission electric cooperative shall remit the amount determined by the director to the appropriate county treasurer by September 30. If the generation and transmission electric cooperative timely notifies the director and timely remits to the county treasurer the amounts of replacement tax, as determined by the director, the generation and transmission electric cooperative shall not be liable for that unpaid replacement tax due from the distribution electric cooperative member or municipal utility purchasing member. The generation and transmission electric cooperative shall also not be liable for a special utility property tax levy, if any, and shall not be entitled to a tax credit, if any, attributable to the unpaid replacement tax. The county treasurer and the director shall enforce payment of the replacement tax against the appropriate distribution electric cooperative member or municipal utility purchasing member pursuant to sections 437A.9 through 437A.13. The county treasurer shall enforce payment of the special utility property tax levy, if any, against the appropriate distribution electric cooperative member or municipal utility purchasing member. For purposes of this paragraph:

a. Written notice to the director must be either delivered to the director by electronic means, United States postal service, or a common carrier, by ordinary, certified, or registered mail directed to the attention of the director, be personally delivered to the director, or be served on the director by personal service during business hours. If the notice is mailed, a notice is considered delivered on the date of the postmark. If a postmark date is not present on the mailed article, the date of receipt of notice shall be considered the date of the mailing. A notice is considered delivered on the date personal service or personal delivery to the office of the director is made.

b. Written notice to a generation and transmission electric cooperative must be delivered to the cooperative by electronic means, United States postal service, or a common carrier, by ordinary, certified, or registered mail, directed to the attention of the manager of the cooperative, be personally delivered to the manager of the cooperative, or be served on the manager of the cooperative by personal service during business hours. For the purpose of mailing, a notice is considered delivered on the date of the postmark. If a postmark date is not present on the mailed article, the date of receipt of notice shall be considered the date of the mailing. A notice is considered delivered on the date personal service or personal delivery to the office of the manager of the cooperative is made.

Sec. 8. Section 437A.8, subsection 6, Code 2001, is amended to read as follows:

6. Notwithstanding subsections 1 through 5, a taxpayer shall not be required to file a return otherwise required by this section or remit any replacement tax for any tax year in which the taxpayer's replacement tax liability before credits is three hundred dollars or less, provided that all electric companies, electric cooperatives, municipal utilities, and natural gas companies shall file a return, regardless of the taxpayer's replacement tax liability.

Sec. 9. Section 437A.15, subsection 3, Code 2001, is amended to read as follows:

3. a. All replacement taxes owed by a taxpayer shall be allocated among the local taxing districts in which such taxpayer's property is located in accordance with a general allocation formula determined by the department of management on the basis of general property tax equivalents. General property tax equivalents shall be determined by applying the levy rates reported by each local taxing district to the department of management on or before June 30 following a tax year to the assessed value of taxpayer property allocated to each such local taxing district as adjusted and reported to the department of management in such tax year by the director pursuant to section 437A.19, subsection 2. The general allocation formula for a tax year shall allocate to each local taxing district that portion of the replacement taxes owed by each taxpayer which bears the same ratio as such taxpayer's general property tax equivalents for each local taxing district bears to such taxpayer's total general property tax equivalents for all local taxing districts in Iowa.

b. Notwithstanding other provisions of this section, if excess property tax liability has been assigned pursuant to section 437A.4, subsection 3, paragraph "c", subparagraph (4), and has not been removed, the allocation of electric delivery replacement tax attributable to the excess property tax liability shall be made by the director and the department of management so as to allocate the electric delivery replacement tax attributable to the excess property tax liability among those local taxing districts in which the property associated with the excess property tax liability is located. In order to ensure that the electric delivery replacement tax attributable to the excess property tax liability is paid to the appropriate county treasurer for disposition to the local taxing districts, each distribution electric cooperative member and each municipal utility purchasing member subject to section 437A.4, subsection 3, paragraph "c", subparagraph (4), shall pay to the appropriate generation and transmission electric cooperative the electric delivery replacement tax attributable to the excess property tax liability by ~~August 1~~ September 10. The amount of electric delivery replacement tax attributable to the excess property tax liability shall equal that percentage of total electric delivery replacement tax liability that the excess property tax liability bears to the total property tax liability contained in the electric delivery tax component. The generation and transmission electric cooperative shall pay the electric delivery replacement tax attributable to the excess property tax liability to the appropriate county treasurer.

c. If paragraph "b" is applicable, on or before ~~June 1~~ August 1, the director shall notify each distribution electric cooperative member, each municipal utility purchasing member, and each generation and transmission electric cooperative of the amount of electric delivery replacement tax to pay to the generation and transmission electric cooperative. On or before ~~June 1~~ August 1, the director shall notify the generation and transmission electric cooperative of the amount of replacement tax liability attributable to the excess property tax liability that is payable to each county treasurer. The director shall determine the amount of any special utility property tax levy or tax credit attributable to the excess property tax liability which shall be reflected in the amount required to be paid by each distribution electric cooperative member and each municipal utility purchasing member to the generation and transmission electric cooperative.

d. If, during the tax year, a taxpayer transferred operating property or an interest in operating property to another taxpayer, the transferee taxpayer's replacement tax associated with that property shall be allocated, for the tax year in which the transfer occurred, under this section in accordance with the general allocation formula on the basis of the general property tax equivalents of the transferor taxpayer.

e. Notwithstanding the provisions of this section, if during the tax year a person who was not a taxpayer during the prior tax year acquires a new major addition, as defined in section 437A.3, subsection 17, paragraph "d", the replacement tax associated with that major addition shall be allocated, for that tax year, under this section in accordance with the general allocating formula on the basis of the general property tax equivalents established under section 437A.15, except that the levy rates established and reported to the department of management on or before June 30 following the tax year in which the major addition was acquired shall be applied to the prorated assessed value of the major addition and provided that section 437A.19, subsection 2, paragraph "b", subparagraph (2), is in any event applicable. For purposes of this paragraph, "prorated assessed value of the major addition" means the assessed value of the major addition as of January 1 of the year following the tax year in which the major addition was acquired multiplied by the percentage derived by dividing the number of months that the major addition existed during the tax year by twelve, counting any portion of a month as a full month.

Sec. 10. Section 437A.19, subsection 2, paragraph b, subparagraph (2), Code 2001, is amended to read as follows:

(2) If, during the preceding calendar year, a taxpayer transferred an electric power generating plant or an interest in an electric power generating plant to a taxpayer who owned no other taxpayer property in this state as of the end of such preceding calendar year, in lieu of

the adjustment provided in subparagraph (1), the director shall allocate the transferee taxpayer's change in book value of the statewide amount during such preceding calendar year, if any, among local taxing districts in proportion to the allocation of the transferor's assessed value among local taxing districts as of the end of such preceding calendar year.

Sec. 11. Section 437A.21, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Each electric company, natural gas company, electric cooperative, municipal utility, and other person whose property is subject to the statewide property tax shall file with the director a return, on or before ~~February 28~~ March 31 following the assessment year, including, but not limited to, the following information:

Sec. 12. Section 437A.24, Code 2001, is amended to read as follows:  
437A.24 RECORDS.

Each electric company, natural gas company, electric cooperative, municipal utility, and other person who is subject to the replacement tax or the statewide property tax shall maintain records associated with the replacement tax and the assessed value of property subject to the statewide property tax for a period of ~~ten~~ five years following the later of the original due date for filing a return pursuant to sections 437A.8 and 437A.21 in which such taxes are reported, or the date on which either such return is filed. Such records shall include those associated with any additions or dispositions of property, and the allocation of such property among local taxing districts.

Sec. 13. APPLICABILITY.

1. Section 1 of this Act is applicable to tax years commencing on or after January 1, 2001.
2. Section 3 of this Act is applicable to tax years commencing on or after January 1, 2001.
3. Section 4 of this Act is applicable to tax years and assessment years commencing on or after January 1, 2001.
4. Sections 5 and 6 of this Act are applicable for returns due for tax years commencing on or after January 1, 2001.
5. Section 11 of this Act is applicable for returns due for assessment years commencing on or after January 1, 2001.

Approved May 16, 2001

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## CHAPTER 146

### COMMUNITY COLLEGE FACULTY LICENSING — REVIEW

*S.F. 480*

**AN ACT** directing the department of education to establish a task force to conduct a comprehensive review of the licensing of community college faculty.

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

Section 1. REVIEW OF COMMUNITY COLLEGE FACULTY LICENSING REQUIREMENTS.

1. The general assembly finds a consensus in the state supportive of a review of the licensing of community college faculty by the board of educational examiners.
2. The department of education shall establish a task force to conduct a comprehensive

review of the licensing of community college faculty by the board of educational examiners including but not limited to related issues such as tenure and termination procedures. The department shall submit a written report of its findings and recommendations to the chairpersons and ranking members of the senate and house of representatives standing committees on education by December 1, 2001.

3. The members of the task force shall include, but shall not be limited to, the following:

a. One member who shall be the director of the department of education or the director's designee.

b. One member who shall be the director of the board of educational examiners or the director's designee.

c. One member appointed by the largest collective bargaining organization representing teachers in the state.

d. One member who shall be a community college president appointed by an association which represents the largest number of community college presidents in the state.

e. One member who shall be a community college trustee appointed by an association which represents the largest number of community college trustees in the state.

f. One member who shall be appointed by the community college council.

g. One member who shall be employed by a community college as an instructor in vocational education and who shall be appointed by the director of the department of education; and one member who shall be employed by a community college as an instructor in arts and science courses who shall be appointed by the director of the department of education. In making these appointments, the director shall give consideration to enrollment, subject area, and representation of different geographic regions.

h. Other members appointed by the director of the department of education as necessary.

4. Appointments are subject to sections 69.16 and 69.16A.

5. If sufficient funds are appropriated by the general assembly for purposes of the task force, citizen members shall be reimbursed for actual and necessary expenses incurred in performance of their duties.

Approved May 18, 2001

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## CHAPTER 147

### ADMINISTRATION AND MANAGEMENT OF EXECUTIVE BRANCH PERSONNEL

*H.F. 579*

**AN ACT** relating to the administration and management of the department of personnel and the state board of regents.

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

Section 1. Section 19A.9, subsection 3, unnumbered paragraph 3, Code 2001, is amended to read as follows:

Vacancies shall be announced publicly at least ~~fifteen~~ ten days in advance of the date fixed for the filing of applications therefore, and shall be advertised through the communications media. The director may, however, in the director's discretion, continue to receive applications and examine candidates for a period adequate to assure a sufficient number of

eligibles to meet the needs of the system, and may add the names of successful candidates to existing eligible lists.

Sec. 2. Section 19A.32, Code 2001, is amended to read as follows:

**19A.32 WORKERS' COMPENSATION CLAIMS.**

The director shall employ appropriate staff to handle and adjust claims of state employees for workers' compensation benefits pursuant to chapters 85, 85A, 85B, and 86, or with the approval of the executive council contract for the services or purchase workers' compensation insurance coverage for state employees or selected groups of state employees. A state employee workers' compensation fund is established to pay state employee workers' compensation claims and administrative costs. The department shall establish a rating formula and assess premiums to all agencies, departments, and divisions of the state including those which have not received an appropriation for the payment of workers' compensation insurance and which operate from moneys other than from the general fund of the state. The department shall collect the premiums and deposit them into the state employee workers' compensation fund. Notwithstanding section 8.33, moneys deposited in the state employee workers' compensation fund shall not revert to the general fund of the state at the end of any fiscal year, but shall remain in the state employee workers' compensation fund and be continuously available to pay state employee workers' compensation claims. ~~The director of revenue and finance is authorized and directed to draw warrants on this fund for the payment of state employee workers' compensation claims~~ may, to the extent practicable, contract with a private organization to handle the processing and payment of claims and services rendered under the provisions of this section.

Sec. 3. Section 19B.5, subsections 2 and 3, Code 2001, are amended to read as follows:

2. The department of personnel shall submit a report on the condition of affirmative action, diversity, and multicultural programs in state agencies covered by subsection 1 by September 30 of each year to the ~~department of management~~ governor and the general assembly. The report shall include information identifying funding sources and itemized costs, including administrative costs, for these programs.

3. The state board of regents shall submit an annual report of the affirmative action, diversity, and multicultural accomplishments of the board and its institutions by January 31 of each year to the ~~department of management~~ general assembly. The report shall include information identifying funding sources and itemized costs, including administrative costs, for these programs.

Sec. 4. Section 19B.6, Code 2001, is amended to read as follows:

**19B.6 RESPONSIBILITIES OF DEPARTMENT OF PERSONNEL AND DEPARTMENT OF MANAGEMENT — AFFIRMATIVE ACTION.**

The department of ~~management~~ personnel shall oversee the implementation of sections 19B.1 through 19B.5 and shall work with the governor to ensure compliance with those sections, including the attainment of affirmative action goals and timetables, by all state agencies, ~~including~~ excluding the state board of regents and its institutions. ~~The department of management shall oversee the implementation of sections 19B.1 through 19B.5 and shall work with the governor to ensure compliance with those sections, including the attainment of affirmative action goals and timetables, by the state board of regents and its institutions.~~

Approved May 18, 2001



CHAPTER 148

LICENSES ISSUED BY THE DEPARTMENT OF NATURAL RESOURCES — FEES

H.F. 720

AN ACT relating to the taking of fish and game by increasing fees for nonresident hunting, fishing, fur harvesting, and related licenses, providing for additional licenses and fees, and providing effective and applicability dates.

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

Section 1. Section 483A.1, subsection 1, Code 2001, is amended by adding the following new paragraphs:

<u>NEW PARAGRAPH.</u> l. Fishing license, seven-day .....	\$	8.50
<u>NEW PARAGRAPH.</u> m. Trout fishing fee .....	\$	10.50
<u>NEW PARAGRAPH.</u> n. Game breeder license .....	\$	15.50
<u>NEW PARAGRAPH.</u> o. Taxidermy license .....	\$	15.50
<u>NEW PARAGRAPH.</u> p. Falconry license .....	\$	20.50
<u>NEW PARAGRAPH.</u> q. Wildlife habitat fee .....	\$	8.00
<u>NEW PARAGRAPH.</u> r. Migratory game bird fee .....	\$	8.00
<u>NEW PARAGRAPH.</u> s. Fish habitat fee .....	\$	3.00

Sec. 2. Section 483A.1, subsection 2, Code 2001, is amended to read as follows:

2. Nonresidents:

a. Fishing license, <u>annual</u> .....	\$	<del>22.50</del>
		<u>36.00</u>
b. Fishing license, seven-day .....	\$	27.00
<del>b. c.</del> Hunting license, eighteen years of age or older .....	\$	<del>60.50</del>
		<u>80.00</u>
e. <del>d.</del> Hunting license, under eighteen years of age .....	\$	<del>25.50</del>
		<u>30.00</u>
<del>d. e.</del> Deer hunting license, <u>antlered or any sex deer</u> .....	\$	<del>150.00</del>
		<u>220.00</u>
f. Deer hunting license, antlerless deer only .....	\$	150.00
<del>e. g.</del> Wild turkey hunting license .....	\$	<del>75.50</del>
		<u>100.00</u>
f. <del>h.</del> Fur harvester license .....	\$	<del>180.50</del>
		<u>200.00</u>
<del>g. i.</del> Fur dealer license .....	\$	<del>500.50</del>
		<u>501.00</u>
<del>h. j.</del> Location permit for fur dealers .....	\$	<del>55.50</del>
		<u>56.00</u>
<del>i. k.</del> Aquaculture unit license .....	\$	<del>50.50</del>
		<u>56.00</u>
<del>j. l.</del> Bait dealer license .....	\$	<del>60.50</del>
		<u>66.00</u>
m. Trout fishing fee .....	\$	13.00
n. Game breeder license .....	\$	26.00
o. Taxidermy license .....	\$	26.00
p. Falconry license .....	\$	26.00
q. Wildlife habitat fee .....	\$	8.00
r. Migratory game bird fee .....	\$	8.00
s. Fish habitat fee .....	\$	3.00

Sec. 3. Section 483A.1, subsection 3, Code 2001, is amended by striking the subsection.

Sec. 4. NEW SECTION. 483A.3A FISH HABITAT FEE.

A resident or nonresident required to have a fishing license shall not fish unless the person has paid the fish habitat fee. Fish habitat fees shall be administered in the same manner as fishing licenses except that all revenue derived from fish habitat fees shall be deposited in the state fish and game protection fund and shall be used within this state for fish habitat development. Not less than fifty percent of the revenue from fish habitat fees shall be used by the commission to enter into agreements with county conservation boards to carry out the purposes of this section. This section shall not apply to residents who are younger than sixteen years of age or are sixty-five years of age or more, or to residents or nonresidents when fishing in privately owned farm ponds or lakes.

Sec. 5. Section 483A.7, subsection 3, Code 2001, is amended to read as follows:

3. A nonresident wild turkey hunter is required to have ~~only a nonresident hunting license and~~ a nonresident wild turkey hunting license and pay the wildlife habitat fee. The commission shall annually limit to two thousand ~~three hundred~~ licenses the number of nonresidents allowed to have wild turkey hunting licenses. ~~Of the two thousand three hundred licenses, one hundred fifty licenses shall be valid for hunting with muzzle loading shotguns only.~~ The number of nonresident wild turkey hunting licenses shall be determined as provided in section 481A.38. The commission shall allocate the nonresident wild turkey hunting licenses issued among the zones based on the populations of wild turkey. A nonresident applying for a wild turkey hunting license must exhibit proof of having successfully completed a hunter safety and ethics education program as provided in section 483A.27 or its equivalent as determined by the department before the license is issued.

Sec. 6. Section 483A.8, subsection 3, Code 2001, is amended to read as follows:

3. A nonresident hunting deer is required to have a nonresident hunting license and a nonresident deer license and must pay the wildlife habitat fee. The commission shall annually limit to ~~seven eight~~ thousand five hundred licenses the number of nonresidents allowed to have deer hunting licenses. Of the first six thousand nonresident deer licenses issued, not more than thirty-five percent of the licenses shall be bow season licenses and, after the first six thousand nonresident deer licenses have been issued, all additional licenses shall be issued for antlerless deer only. The number of nonresident deer hunting licenses shall be determined as provided in section 481A.38. The commission shall allocate the nonresident deer hunting licenses issued among the zones based on the populations of deer. However, a nonresident applicant may request one or more hunting zones, in order of preference, in which the applicant wishes to hunt. If the request cannot be fulfilled, the applicable fees shall be returned to the applicant. A nonresident applying for a deer hunting license must exhibit proof of having successfully completed a hunter safety and ethics education program as provided in section 483A.27 or its equivalent as determined by the department before the license is issued.

Sec. 7. Section 483A.8, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A nonresident owning land in this state may apply for one of the six thousand nonresident deer licenses and the provisions of subsection 3 shall apply. However, if a nonresident owning land in this state is unsuccessful in the drawing, the landowner shall be given preference for one of the two thousand five hundred antlerless only nonresident deer licenses. A nonresident owning land in this state shall pay the fee for a nonresident antlerless only deer license and the license shall be valid to hunt on the nonresident's land only. A nonresident owning land in this state is eligible for only one nonresident deer license annually. If one or more parcels of land have multiple nonresident owners, only one of the nonresident owners is eligible for a nonresident antlerless only deer license. If a nonresident jointly owns land in this state with a resident, the nonresident shall not be given preference for a nonresident antlerless only deer license. The department may require proof of land ownership from a nonresident landowner applying for a nonresident antlerless only deer license.

Sec. 8. Section 483A.24, subsection 2, paragraph c, Code 2001, is amended to read as follows:

c. In addition to the free deer hunting license received, an owner of a farm unit or a member of the owner's family and the tenant or a member of the tenant's family may purchase a deer hunting license for any option offered to paying deer hunting licensees. An owner of a farm unit or a member of the owner's family and the tenant or a member of the tenant's family may also purchase two additional antlerless deer hunting licenses which are valid only on the farm unit for a fee of ten dollars each.

Sec. 9. EFFECTIVE AND APPLICABILITY DATES. This Act takes effect December 15, 2001, and applies to licenses and fees for wildlife and game activities for the years beginning on or after January 1, 2002.

Approved May 18, 2001

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## CHAPTER 149

### SALES AND USE TAXES ON IRRIGATION EQUIPMENT

*H.F. 723*

**AN ACT** exempting irrigation equipment from sales and use taxes, providing limited refunds, and including effective and retroactive applicability date provisions.

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

Section 1. Section 422.45, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 26A. The gross receipts from the sale or rental of irrigation equipment, whether installed above or below ground, to a contractor or farmer if the equipment will be primarily used in agricultural operations.

Sec. 2. REFUNDS. Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 422.45, subsection 26A, in this Act, for sales occurring between April 1, 1995, and the effective date of this Act, shall be limited to twenty-five thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to October 1, 2001, notwithstanding any other provision of law. If the amount of claims totals more than twenty-five thousand dollars in the aggregate, the department of revenue and finance shall prorate the twenty-five thousand dollars among all claimants in relation to the amounts of the claimants' valid claims.

Sec. 3. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to April 1, 1995.

Approved May 18, 2001

**CHAPTER 150****TAX ADMINISTRATION — ADDITIONAL RELATED MATTERS***H.F. 736*

**AN ACT** relating to the administration of the tax and related laws by the department of revenue and finance, including administration of state sales and use, real estate transfer, environmental protection charge on petroleum diminution, property, motor fuel, special fuel, and inheritance taxes, and including effective and applicability date provisions.

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

Section 1. Section 422.43, Code 2001, is amended by adding the following new subsections:

**NEW SUBSECTION.** 16. a. A tax of five percent is imposed upon the gross receipts from sales of bundled services contracts. For purposes of this subsection, a “bundled services contract” means an agreement providing for a retailer’s performance of services, one or more of which is a taxable service enumerated in this section and one or more of which is not, in return for a consumer’s or user’s single payment for the performance of the services, with no separate statement to the consumer or user of what portion of that payment is attributable to any one service which is a part of the contract.

b. For purposes of the administration of the tax on bundled services contracts, the director may enter into agreements of limited duration with individual retailers, groups of retailers, or organizations representing retailers of bundled services contracts. Such an agreement shall impose the tax rate only upon that portion of the gross receipts from a bundled services contract which is attributable to taxable services provided under the contract.

**NEW SUBSECTION.** 17. A tax of five percent is imposed upon the gross receipts from any mobile telecommunication service which this state is allowed to tax by the provisions of the federal Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. § 116 et seq. For purposes of this subsection, taxes on mobile telecommunications service, as defined under the federal Mobile Telecommunications Sourcing Act that are deemed to be provided by the customer’s home service provider shall be paid to the taxing jurisdiction whose territorial limits encompass the customer’s place of primary use, regardless of where the mobile telecommunication service originates, terminates, or passes through and shall in all other respects be taxed in conformity with the federal Mobile Telecommunications Sourcing Act. All other provisions of the federal Mobile Telecommunications Sourcing Act are adopted by the state of Iowa and incorporated into this subsection by reference. With respect to mobile telecommunications service under the federal Mobile Telecommunications Sourcing Act the director shall, if requested, enter into agreements consistent with the provisions of the federal Act.

Sec. 2. Section 422.45, subsection 3, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

3. The gross receipts from sales or rental of tangible personal property, or services rendered by any entity where the profits from the sales or rental of the tangible personal property, or services rendered are used by or donated to a nonprofit entity which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code, a government entity, or a private educational institution, and where the entire proceeds from the sales, rental, or services are expended for any of the following purposes:

a. Educational.

b. Religious.

c. Charitable. A charitable act is an act done out of goodwill, benevolence, and a desire to add or improve the good of humankind in general or any class or portion of humankind, with no pecuniary profit inuring to the person performing the service or giving the gift.

This exemption does not apply to the gross receipts from games of skill, games of chance, raffles, and bingo games as defined in chapter 99B. This exemption is disallowed on the amount of the gross receipts only to the extent the profits from the sales, rental, or services are not used by or donated to the appropriate entity and expended for educational, religious, or charitable purposes.

Sec. 3. Section 422.45, subsection 8, Code 2001, is amended to read as follows:

8. The gross receipts of all sales of goods, wares, ~~or~~ merchandise, or services, used for educational purposes to any private nonprofit educational institution in this state. ~~The exemption provided by this subsection shall also apply to all such sales of goods, wares or merchandise, or services, subject to use tax under the provisions of chapter 423. For the purpose of this subsection, "educational institution" means an institution which primarily functions as a school, college, or university with students, faculty, and an established curriculum. The faculty of an educational institution must be associated with the institution and the curriculum must include basic courses which are offered every year. "Educational institution" includes an institution primarily functioning as a library.~~

Sec. 4. Section 422.45, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 60. The gross receipts from sales of goods, wares, or merchandise, or from services performed, rendered, or furnished to a nonprofit private art center to be used in the operation of the art center.

Sec. 5. Section 423.1, subsection 10, Code 2001, is amended to read as follows:

10. "Retailer maintaining a place of business in this state" or any like term includes any retailer having or maintaining within this state, directly or by a subsidiary, tangible personal property leased to a lessee of the retailer, an office, distribution house, sales house, warehouse, or other place of business, or any representative operating within this state under the authority of the retailer or its subsidiary, irrespective of whether that place of business or representative is located here permanently or temporarily, or whether the retailer or subsidiary is admitted to do business within this state pursuant to chapter 490.

Sec. 6. Section 423.1, subsection 12, Code 2001, is amended to read as follows:

12. "Tangible personal property" means tangible goods, wares, merchandise, optional service or warranty contracts, except residential service contracts regulated under chapter 523C, vulcanizing, recapping, or retreading services, engraving, photography, retouching, printing, or binding services, and gas, electricity, ~~and~~ water, and communication service when furnished or delivered to consumers or users within this state.

Sec. 7. Section 423.4, subsection 9, Code 2001, is amended to read as follows:

9. Vehicles subject to registration which are transferred from a business or individual conducting a business within this state as a sole proprietorship, ~~or~~ partnership, or limited liability company to a corporation formed by the sole proprietorship, ~~or~~ partnership, or limited liability company for the purpose of continuing the business when all of the stock of the corporation so formed is owned by the sole proprietor and the sole proprietor's spouse, ~~or~~ by all the partners in the case of a partnership, or by all of the members in the case of a limited liability company. This exemption is equally available where the vehicles subject to registration are transferred from a corporation to a sole proprietorship, ~~or~~ partnership, or limited liability company formed by that corporation for the purpose of continuing the business when all of the incidents of ownership are owned by the same person or persons who were stockholders of the corporation.

This exemption also applies where the vehicles subject to registration are transferred from a corporation as part of the liquidation of the corporation to its stockholders if within three months of such transfer the stockholders retransfer those vehicles subject to registration to a sole proprietorship, partnership, or limited liability company for the purpose of continuing the business of the corporation when all of the incidents of ownership are owned by the same person or persons who were stockholders of the corporation.

Sec. 8. Section 424.10, subsections 1 and 3, Code 2001, are amended to read as follows:

1. As soon as practicable after a return is filed and in any event within ~~five~~ three years after the return is filed the department shall examine it, assess and determine the charge due if the return is found to be incorrect, and give notice to the depositor of ~~such~~ the assessment and determination as provided in subsection 2. The period for the examination and determination of the correct amount of the charge is unlimited in the case of a false or fraudulent return made with the intent to evade the charge or in the case of a failure to file a return. If the determination that a return is incorrect is the result of an audit of the books and records of the depositor, the charge, or additional charge, if any is found due, shall be assessed and determined and the notice to the depositor shall be given by the department within one year after the completion of the examination of the books and records.

3. If the amount paid is greater than the correct charge, penalty, and interest due, the department shall refund the excess, with interest after sixty days from the date of payment at the rate in effect under section 421.7, pursuant to rules prescribed by the director. However, the director shall not allow a claim for refund that has not been filed with the department within ~~five~~ three years after the charge payment upon which a refund is claimed became due, or one year after the charge payment was made, whichever time is later. A determination by the department of the amount of charge, penalty, and interest due, or the amount of refund for any excess amount paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within sixty days from the date of the notice of determination of charge, penalty, and interest due or refund owing. The director shall grant a hearing, and upon hearing the director shall determine the correct charge, penalty, and interest due or refund owing, and notify the appellant of the decision by mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 424.13.

Sec. 9. Section 424.12, Code 2001, is amended to read as follows:

424.12 RECORDS REQUIRED.

It ~~shall be~~ is the duty of every depositor required to make a report and pay any charge under this chapter, to preserve such records as the director may require, and it ~~shall be~~ is the duty of every depositor to preserve for a period of ~~five~~ three years all invoices and other records; and all such books, invoices, and other records shall be open to examination at any time by the department, and shall be made available within this state for ~~such~~ examination upon reasonable notice when the director shall so order. When requested to do so by any person from whom a charge payer is seeking credit, or with whom the charge payer is negotiating the sale of any personal property, or by any other person having a legitimate interest in such information, the director, upon being satisfied that such a situation exists, shall inform ~~such~~ that person as to the amount of unpaid charges due by the charge payer under ~~the provisions~~ of this chapter. The giving of ~~such~~ information under such circumstances shall not be deemed a violation of section 422.72 as applied to this chapter.

Section 422.72 applies to this chapter as if the environmental protection charge were a tax.

Sec. 10. Section 424.15, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If it appears that, as a result of mistake, an amount of a charge, penalty, or interest has been paid which was not due under ~~the provisions~~ of this chapter, then ~~such~~ that amount shall be refunded to ~~such person~~ the charge payer by the department. A claim for refund that has not been filed with the department within ~~five~~ three years after the charge payment upon which a refund is claimed became due, or one year after ~~such~~ that charge payment was made, whichever time is the later, shall not be allowed by the director.

Sec. 11. Section 427.1, subsection 14, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A society or organization claiming an exemption under subsection 5 or subsection 8 shall

file with the assessor not later than ~~April 15~~ February 1 a statement upon forms to be prescribed by the director of revenue and finance, describing the nature of the property upon which the exemption is claimed and setting out in detail any uses and income from the property derived from the rentals, leases, or other uses of the property not solely for the appropriate objects of the society or organization. Upon the filing and allowance of the claim, the claim shall be allowed on the property for successive years without further filing as long as the property is used for the purposes specified in the original claim for exemption. When the property is sold or transferred, the county recorder shall provide notice of the transfer to the assessor. The notice shall describe the property transferred and the name of the person to whom title to the property is transferred.

Sec. 12. Section 427.1, subsection 20, Code 2001, is amended to read as follows:

20. **IMPOUNDMENT STRUCTURES.** The impoundment structure and any land underlying an impoundment located outside an incorporated city, which are not developed or used directly or indirectly for nonagricultural income-producing purposes and which are maintained in a condition satisfactory to the soil and water conservation district commissioners of the county in which the impoundment structure and the impoundment are located. A person owning land which qualifies for a property tax exemption under this subsection shall apply to the county assessor each year ~~before the first of July~~ not later than February 1 for the exemption. The application shall be made on forms prescribed by the department of revenue and finance. The first application shall be accompanied by a copy of the water storage permit approved by the administrator of the environmental protection division of the department of natural resources and a copy of the plan for the construction of the impoundment structure and the impoundment. The construction plan shall be used to determine the total acre-feet of the impoundment and the amount of land which is eligible for the property tax exemption ~~status~~. The county assessor shall annually review each application for the property tax exemption under this subsection and submit it, with the recommendation of the soil and water conservation district commissioners, to the board of supervisors for approval or denial. An applicant for a property tax exemption under this subsection may appeal the decision of the board of supervisors to the district court.

**PARAGRAPH DIVIDED.** As used in this subsection, "impoundment" means a reservoir or pond which has a storage capacity of at least eighteen acre-feet of water or sediment at the time of construction; "storage capacity" means the total area below the crest elevation of the principal spillway including the volume of any excavation in the area; and "impoundment structure" means a dam, earthfill, or other structure used to create an impoundment.

Sec. 13. Section 427.1, subsection 22, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Application for this exemption shall be filed with the commissioners of the soil and water conservation district in which the property is located, not later than ~~April 15~~ February 1 of the assessment year, on forms provided by the department of revenue and finance. The application shall describe and locate the property to be exempted and have attached to it an aerial photo of that property on which is outlined the boundaries of the property to be exempted. In the case of an open prairie which is or includes a gully area susceptible to severe erosion, an approved erosion control plan must accompany the application. Upon receipt of the application, the commissioners shall certify whether the property is eligible to receive the exemption. The commissioners shall not withhold certification of the eligibility of property because of the existence upon the property of an abandoned building or structure which is not used for economic gain. If the commissioners certify that the property is eligible, the application shall be forwarded to the board of supervisors by May 1 of that assessment year with the certification of the eligible acreage. An application must be accompanied by an affidavit signed by the applicant that if an exemption is granted, the property will not be used for economic gain during the assessment year in which the exemption is granted.

Sec. 14. Section 427.1, subsection 30, Code 2001, is amended to read as follows:

30. **MOBILE HOME PARK STORM SHELTER.** A structure constructed as a storm shelter at a mobile home park as defined in section 435.1. An application for this exemption shall be filed with the assessing authority not later than ~~April fifteenth~~ February 1 of the first year for which the exemption is requested, on forms provided by the department of revenue and finance. The application shall describe and locate the storm shelter to be exempted. If the storm shelter structure is used exclusively as a storm shelter, all of the structure's assessed value shall be exempt from taxation. If the storm shelter structure is not used exclusively as a storm shelter, the storm shelter structure shall be assessed for taxation at seventy-five percent of its value as commercial property.

Sec. 15. Section 427.16, subsection 2, Code 2001, is amended to read as follows:

2. Application for the exemption shall be filed with the assessor, not later than ~~March 1~~ February 1 of the assessment year, on forms provided by the department of revenue and finance. The exemption application shall include an approved application for certified substantial rehabilitation from the state historic preservation officer and documentation of additional property tax relief or financial assistance currently allowed for the real property. Upon receipt of the application, the assessor shall certify whether or not the property is eligible to receive the exemption and shall forward the application to the board.

Sec. 16. Section 427C.3, Code 2001, is amended to read as follows:

**427C.3 FOREST RESERVATION.**

A forest reservation shall contain not less than two hundred growing forest trees on each acre. If the area selected is a forest containing the required number of growing forest trees, it shall be accepted as a forest reservation under this chapter provided application is made or on file on or before ~~April 15~~ February 1 of the exemption year. If any buildings are standing on an area selected as a forest reservation under this section or a fruit-tree reservation under section 427C.7, one acre of that area shall be excluded from the tax exemption. However, the exclusion of that acre shall not affect the area's meeting the acreage requirement of section 427C.2.

Sec. 17. Section 427C.7, Code 2001, is amended to read as follows:

**427C.7 FRUIT-TREE RESERVATION — DURATION OF EXEMPTION.**

A fruit-tree reservation shall contain on each acre, at least forty apple trees, or seventy other fruit trees, growing under proper care and annually pruned and sprayed. A reservation may be claimed as a fruit-tree reservation, under this chapter, for a period of eight years after planting provided application is made or on file on or before ~~April 15~~ February 1 of the exemption year.

Sec. 18. Section 428A.8, Code 2001, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** Any tax or additional tax found to be due shall be collected by the county recorder. If the county recorder is unable to collect the tax, the director of revenue and finance shall collect the tax in the same manner as taxes are collected in chapter 422, division III. If collected by the director of revenue and finance, the director shall pay the county its proportionate share of the tax. Section 422.25, subsections 1, 2, 3, and 4, and sections 422.26, 422.28 to 422.30, and 422.73, consistent with this chapter, apply with respect to the collection of any tax or additional tax found to be due, in the same manner and with the same effect as if the deed, instrument, or writing were an income tax return within the meaning of those statutes.

Sec. 19. **NEW SECTION.** 428A.9 REFUND OF TAX.

To receive a refund from the state the taxpayer shall petition the state appeal board for a refund of the amount of overpayment of the tax paid to the treasurer of state. To receive a refund from the county the taxpayer shall petition the board of supervisors for a refund of the remaining portion of the overpayment paid to that county.



Sec. 20. Section 450.4, subsection 5, Code 2001, is amended to read as follows:

5. On the value of that portion of any lump sum or installment payments which will be includable as net income as defined in section 422.7 as received by a beneficiary under an annuity which was purchased under an employees pension or retirement plan.

Sec. 21. Section 450.4, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 7. On the value of that portion of any lump sum or installment payments which are received by a beneficiary under an annuity which was purchased under an employee's pension or retirement plan where the employee is a nonresident of Iowa at the time of death.

NEW SUBSECTION. 8. On the value of that portion of any lump sum or installment payments which are received by a beneficiary under an annuity which was purchased under an employee's pension or retirement plan which was excluded from net income as set forth in section 422.7, subsection 31.

Sec. 22. Section 452A.2, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. "Denatured ethanol" means ethanol that is to be blended with gasoline, has been derived from cereal grains, complies with American society of testing materials designation D-4806-95b, and may be denatured only as specified in Code of Federal Regulations, Titles 20, 21, and 27. Alcohol and denatured ethanol have the same meaning in this chapter.

NEW SUBSECTION. 18A. "Racing fuel" means leaded gasoline of one hundred ten octane or more that does not meet American society of testing materials designation D-4814 for gasoline and is sold in bulk for use in nonregistered motor vehicles.

Sec. 23. Section 452A.2, subsection 17, paragraph a, Code 2001, is amended to read as follows:

a. All products commonly or commercially known or sold as gasoline, including ethanol blended gasoline, casinghead, and absorption or natural gasoline, regardless of their classifications or uses, and including transmix which serves as a buffer between fuel products in the pipeline distribution process.

Sec. 24. Section 452A.3, subsection 5, paragraph a, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Tax shall not be paid when the sale of alcohol occurs within a terminal from an alcohol manufacturer to an Iowa licensed supplier. The tax shall be paid by the Iowa licensed supplier when the invoiced gross gallonage of the alcohol or the alcohol part of ethanol blended gasoline is withdrawn from a terminal for delivery in this state.

Sec. 25. Section 452A.17, subsection 1, paragraph a, Code 2001, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (10) Racing fuel.

Sec. 26. EFFECTIVE AND APPLICABILITY DATES.

1. The sections of this Act amending Code section 422.45, subsections 3 and 8, take effect January 1, 2002.

2. The sections of this Act amending Code sections 427.1, 427.16, 427C.3, and 427C.7 take effect January 1, 2002, and apply to claims filed on or after that date.

Approved May 18, 2001

## CHAPTER 151

### APPLICATION OF SALES AND SERVICES TAX RECEIPTS TO BONDED INDEBTEDNESS — POLITICAL SUBDIVISIONS

H.F. 739

**AN ACT** relating to the application of sales and services tax receipts by a political subdivision to the payment of principal and interest of certain bonds.

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

Section 1. Section 76.4, Code 2001, is amended to read as follows:  
76.4 PERMISSIVE APPLICATION OF FUNDS.

Whenever the governing authority of such political subdivision shall have on hand funds derived from any other source than taxation which may be appropriated to the payment either of interest or principal, or both principal and interest of such bonds, such funds may be so appropriated and used and the levy for the payment of the bonds correspondingly reduced. This section shall not restrict the authority of a political subdivision to apply sales and services tax receipts collected pursuant to chapter 422B for such purpose. Notwithstanding section 422E.1, subsection 3, a school district may apply local sales and services tax receipts collected pursuant to chapter 422E for the purposes of this section.

Approved May 18, 2001

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## CHAPTER 152

### UNCLAIMED AND ABANDONED PROPERTY — BUSINESS ASSOCIATION PROPERTY

S.F. 526

**AN ACT** excluding certain business property from being considered abandoned property under the state's disposition of unclaimed property law.

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

Section 1. Section 556.1, subsection 9, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Property" does not include credits, advance payments, overpayments, refunds, or credit memoranda shown on the books and records of a business association with respect to another business association unless the balance is property described in section 556.2 held by a banking organization or financial organization.

Approved May 21, 2001

**CHAPTER 153****MANUFACTURED OR MOBILE HOMES —  
LICENSING AND REGULATION***H.F. 656*

**AN ACT** relating to the licensing and regulation of manufactured or mobile homes, and providing coordinating amendments.

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

Section 1. Section 322B.1, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

**322B.1 SHORT TITLE.**

This chapter may be cited as the “Manufactured or Mobile Home Retailers Licensing Act”.

Sec. 2. Section 322B.2, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

**322B.2 DEFINITIONS.**

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

1. “Department” means the state department of transportation.
2. “Home” means a manufactured home, mobile home, or modular home.
3. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. § 5403, that is required by federal law to display a seal required by the United States department of housing and urban development, and was constructed on or after June 15, 1976.
4. “Manufactured or mobile home distributor” means a person who sells or distributes manufactured or mobile homes to manufactured<sup>1</sup> home retailers.
5. “Manufactured or mobile home manufacturer” means a person engaged in the business of fabricating or assembling manufactured or mobile homes.
6. “Manufactured or mobile home retailer” means a person who, for a commission or other thing of value, sells, exchanges, or offers or attempts to negotiate a sale or exchange of an interest in a home or who is engaged wholly or in part in the business of selling homes, whether or not the homes are owned by the retailer. “Manufactured or mobile home retailer” does not include any of the following:
  - a. A receiver, trustee, administrator, executor, guardian, attorney, or other person appointed by or acting under the judgment or order of a court to transfer an interest in a home.
  - b. A person transferring a home registered in the person’s name and used for personal, family, or household purposes, if the transfer is an occasional sale and is not part of the business of the transferor.
  - c. A person who transfers an interest in a home only as an incident to engaging in the business of financing new or used homes.
  - d. A person who exclusively sells modular homes.
7. “Mobile home” means a structure, transportable in one or more sections, which exceeds eight feet in width and thirty-two feet in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to one or more utilities. A “mobile home” is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976.
8. “Modular home” means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa state building code for modular factory-built structures, and displays a seal issued by the state building code commissioner.
9. “New home” means a home that has not been sold at retail.
10. “Preowned home” means a home that has been previously sold at retail.

<sup>1</sup> See chapter 176, §66, 82 herein

11. "Retailer's inventory" means homes offered for sale at the retailer's licensed address or at any mobile home park or land-lease community so long as the title of the home is in the retailer's name and the home is not being occupied.

12. "Sell at retail" means to sell a home to a person who will devote it to a consumer use.

Sec. 3. Section 322B.3, Code 2001, is amended to read as follows:

322B.3 MANUFACTURED OR MOBILE HOME DEALER RETAILER LICENSE — PROCEDURE.

1. LICENSE APPLICATION. A manufactured or mobile home dealer retailer shall file in the office of the department an application for license as a manufactured or mobile home dealer retailer in the same manner as a motor vehicle dealer applicant under section 322.4 or as the department may prescribe. A manufactured or mobile home dealer retailer license may be issued in the same manner as a motor vehicle dealer license pursuant to section 322.7.

2. LICENSE FEES. The license fee for a manufactured or mobile home dealer retailer is seventy dollars for a two-year license, one hundred forty dollars for a four-year license, or two hundred ten dollars for a six-year license. If the application is denied, the department shall refund the fee. Fees and funds accruing from the administration of this chapter shall be accounted for and paid by the department to the treasurer of state monthly for deposit in the road use tax fund of the state.

3. SURETY BOND. Before the issuance of a manufactured or mobile home dealer's retailer's license, an applicant for a license shall file with the department a surety bond executed by the applicant as principal and executed by a corporate surety company, licensed and qualified to do business within this state, which bond shall run to the state of Iowa, be in the amount of fifty thousand dollars and be conditioned upon the faithful compliance by the applicant as a dealer retailer with all of the statutes of this state regulating the business of the dealer retailer and indemnifying any person dealing or transacting business with the dealer retailer in connection with a manufactured or mobile home, from a loss or damage occasioned by the failure of the dealer retailer to comply with this chapter, including, but not limited to, the furnishing of a proper and valid document of title to the manufactured or mobile home involved in the transaction.

4. PERMITS FOR FAIRS, SHOWS, AND EXHIBITIONS. ~~Mobile~~ Manufactured or mobile home dealers retailers, in addition to selling ~~mobile~~ homes at their principal place of business and lots, may, upon receipt of a temporary permit approved by the department, display and offer new ~~mobile~~ manufactured homes for sale and negotiate sales of new ~~mobile~~ manufactured homes at fairs, shows, and exhibitions which are approved by the department. Application for temporary permits shall be made upon forms provided by the department and shall be accompanied by a ten dollar permit fee. Temporary permits shall be issued for a period not to exceed fourteen days.

5. MANUFACTURED OR MOBILE HOME HOOKUPS. A manufactured or mobile home dealer retailer or an employee of a manufactured or mobile home dealer retailer may perform water, gas, electrical, and other utility service connections in a manufactured or mobile home space, or within ten feet of such space, located in a manufactured home community or mobile home park, and the dealer retailer or an employee of the dealer retailer may install a tie-down system on a manufactured or mobile home located in a manufactured home community or mobile home park. The connections are subject to inspection and approval by local building code officials and the manufactured or mobile home dealer retailer shall pay the inspection fee, if any.

Sec. 4. Section 322B.4, Code 2001, is amended to read as follows:

322B.4 LICENSE APPLICATION AND FEES.

Upon application and payment of a thirty-five dollar fee, a person may be licensed as a manufacturer or distributor of manufactured or mobile homes. The application shall be in the form and shall contain information as the department prescribes. The license shall be granted or refused within thirty days after application. The license expires, unless sooner

revoked or suspended by the department, on December 31 of the calendar year for which the license was granted. A licensee shall have the month of December of the calendar year for which the license was granted and the following month of January to renew the license. A person who fails to renew a license by the end of this time period and desires to hold a license shall file a new license application and pay the required fee.

Sec. 5. Section 322B.5, Code 2001, is amended to read as follows:

**322B.5 NOTIFICATION.**

The department shall notify the state building code commissioner of each license issued to a manufactured or mobile home dealer retailer.

Sec. 6. Section 322B.6, Code 2001, is amended to read as follows:

**322B.6 REVOCATION, SUSPENSION, AND DENIAL OF LICENSE.**

The department may revoke, suspend, or refuse the license of a manufactured or mobile home dealer retailer, manufactured or mobile home manufacturer, or manufactured or mobile home distributor, as applicable, if the department finds that the manufactured or mobile home dealer retailer, manufacturer, or distributor is guilty of any of the following acts or offenses:

1. Fraud in procuring a license.
  2. Knowingly making misleading, deceptive, untrue or fraudulent representations in the business of a manufactured or mobile home dealer retailer, manufacturer, or distributor or engaging in unethical conduct or practice harmful or detrimental to the public.
  3. Conviction of a felony related to the business of a manufactured or mobile home dealer retailer, manufacturer, or distributor. A copy of the record of conviction or plea of guilty shall be sufficient evidence for the purposes of this section.
  4. Failing upon the sale or transfer of a manufactured or mobile home to deliver to the purchaser or transferee of the manufactured or mobile home sold or transferred, a manufacturer's or importer's certificate, or a certificate of title duly assigned, as provided in chapter 321.
  5. Failing upon the purchasing or otherwise acquiring of a manufactured or mobile home to obtain a manufacturer's or importer's certificate, a new certificate of title or a certificate of title duly assigned as provided in chapter 321.
  6. Failing to apply for and obtain from a county treasurer a certificate of title for a used manufactured or mobile home, titled in Iowa, acquired by the dealer retailer within thirty days from the date of acquisition, as required under section 321.45, subsection 4.
- In accordance with chapters 10A and 17A, each person whose license or application is revoked, suspended, or refused shall be provided an opportunity for a hearing before the department of inspections and appeals.

Sec. 7. Section 322B.8, Code 2001, is amended to read as follows:

**322B.8 UNLAWFUL PRACTICE.**

It is unlawful for a person to engage in business as a manufactured or mobile home dealer retailer, manufactured or mobile home manufacturer, or manufactured or mobile home distributor in this state without first acquiring and maintaining a license in accordance with this chapter. A person convicted of violating the provisions of this section is guilty of a serious misdemeanor.

Sec. 8. Section 322B.9, Code 2001, is amended to read as follows:

**322B.9 MANUFACTURED HOME, MOBILE HOME, AND MODULAR HOME RETAIL INSTALLMENT CONTRACT — FINANCE CHARGE.**

A retail installment contract or agreement for the sale of a manufactured home, mobile home, or modular home may include a finance charge not in excess of an amount equivalent to one and three-fourths percent per month simple interest on the declining balance of the amount financed.

"Amount financed" shall be as defined in section 537.1301.

The limitations contained in this section do not apply in a transaction referred to in section 535.2, subsection 2. With respect to a consumer credit sale, as defined in section 537.1301, the limitations contained in this section supersede conflicting provisions of chapter 537, article 2, part 2.

Sec. 9. Section 331.301, subsection 15, Code 2001, is amended to read as follows:

15. a. A county may adopt and enforce an ordinance requiring the construction of a storm shelter at a manufactured home community or mobile home park which is constructed after July 1, 1999. In lieu of requiring construction of a storm shelter, a county may require a community or park owner to provide a plan for the evacuation of community or park residents to a safe place of shelter in times of severe weather including tornadoes and high winds if the county determines that a safe place of shelter is available within a reasonable distance of the manufactured home community or mobile home park for use by community or park residents. Each evacuation plan prepared pursuant to this subsection shall be filed with, and approved by, the local emergency management agency. If construction of a storm shelter is required, an ordinance adopted or enforced pursuant to this subsection shall not include any of the following requirements:

(1) That the size of the storm shelter be larger than the equivalent of seven square feet for each manufactured or mobile home space in the manufactured home community or mobile home park.

(2) That the storm shelter include a restroom if the shelter is used exclusively as a storm shelter.

(3) That the storm shelter exceed the construction specifications approved by a licensed professional engineer and presented by the owner of the manufactured home community or mobile home park.

(4) That the shelter be located any closer than one thousand three hundred twenty feet from any manufactured or mobile home in the manufactured home community or mobile home park.

b. For the purposes of this subsection:

(1) “Manufactured home community” means the same as land-leased community defined in sections 335.30A and 414.28A.

~~(1)~~ (2) “Mobile home park” means a mobile home park as defined in section 562B.7.

~~(2)~~ (3) “Storm shelter” means a single structure or multiple structures designed to provide persons with temporary protection from a storm.

Sec. 10. Section 364.3, subsections 5 and 8, Code 2001, are amended to read as follows:

5. A city shall not adopt or enforce any ordinance imposing any registration or licensing system or registration or license fees for owner-occupied manufactured or mobile homes including the lots or lands upon which they are located. A city shall not adopt or enforce any ordinance imposing any registration or licensing system, or registration or license fees, or safety or sanitary standards for rental manufactured or mobile homes unless similar registration or licensing system, or registration or license fees, or safety or sanitary standards are required for other rental properties intended for human habitation. This subsection does not preclude the investigation and abatement of a nuisance or the enforcement of a tiedown system, or the enforcement of any regulations of the state or local board of health if those regulations apply to other rental properties or to owner-occupied housing intended for human habitation.

8. a. A city may adopt and enforce an ordinance requiring the construction of a storm shelter at a manufactured home community or mobile home park which is constructed after July 1, 1999. In lieu of requiring construction of a storm shelter, a city may require a community or park owner to provide a plan for the evacuation of community or park residents to a safe place of shelter in times of severe weather including tornadoes and high winds if the city determines that a safe place of shelter is available within a reasonable distance of the manufactured home community or mobile home park for use by community

or park residents. Each evacuation plan prepared pursuant to this subsection shall be filed with, and approved by, the local emergency management agency. If construction of a storm shelter is required, an ordinance adopted or enforced pursuant to this subsection shall not include any of the following requirements:

(1) That the size of the storm shelter be larger than the equivalent of seven square feet for each manufactured or mobile home space in the manufactured home community or mobile home park.

(2) That the storm shelter include a restroom if the shelter is used exclusively as a storm shelter.

(3) That the storm shelter exceed the construction specifications approved by a licensed professional engineer and presented by the owner of the manufactured home community or mobile home park.

(4) That the shelter be located any closer than one thousand three hundred twenty feet from any manufactured or mobile home in the community. However, this restriction shall not prohibit the adoption or enforcement of an ordinance that requires a minimum of one shelter to be located in a manufactured home community or mobile home park.

b. For the purposes of this subsection:

(1) “Manufactured home community” means the same as land-leased community defined in sections 335.30A and 414.28A.

~~(1)~~ (2) “Mobile home park” means a mobile home park as defined in section 562B.7.

~~(2)~~ (3) “Storm shelter” means a single structure or multiple structures designed to provide persons with temporary protection from a storm.

Sec. 11. Section 435.1, Code 2001, is amended to read as follows:

#### 435.1 DEFINITIONS.

The following definitions shall apply to this chapter:

1. Unless the context otherwise requires, “book”, “list”, “record”, or “schedule” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2. “Home” means a mobile home or a manufactured home.

3. “Manufactured home” means a factory-built structure built under authority of 42 U.S.C. § 5403, that is required by federal law to display a seal from the United States department of housing and urban development, and was constructed on or after June 15, 1976. If a manufactured home is placed in a manufactured home community or a mobile home park, the home must be titled and is subject to the manufactured or mobile home square foot tax. If a manufactured home is placed outside a manufactured home community or a mobile home park, the home must be titled and is to be assessed and taxed as real estate.

3A. “Manufactured home community” means the same as land-leased community defined in sections 335.30A and 414.28A.

4. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A “mobile home” is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976. If a mobile home is placed outside a mobile home park, the home is to be assessed and taxed as real estate.

5. “Mobile home park” means a site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” shall not be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily

maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.

A manufactured home community or a mobile home park must be classified as to whether it is a residential manufactured home community or a mobile home park or a recreational manufactured home community or a mobile home park or both. The manufactured home community or mobile home park residential landlord and tenant Act only applies to residential manufactured home communities or mobile home parks.

6. "Modular home" means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa state building code for modular factory-built structures, and must display the seal issued by the state building code commissioner. If a modular home is placed in a manufactured home community or mobile home park, the home is subject to the annual tax as required by section 435.22. If a modular home is placed outside a manufactured home community or a mobile home park, the home shall be considered real property and is to be assessed and taxed as real estate.

Sec. 12. Section 555C.1, Code 2001, is amended to read as follows:  
555C.1 DEFINITIONS.

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

1. "Home" means a mobile home, modular home, or a manufactured home as defined in section 435.1.

1A. "Manufactured home community" means a manufactured home community as defined in section 435.1.

2. "Mobile home park" means a mobile home park as defined in section 435.1.

3. "Personal property" includes personal property of the owner or other occupant of the home, which is located in the home, on the lot where the home is located, in the immediate vicinity of the home or lot, or in any storage area provided by the real property owner for use of the home owner or occupant.

4. "Valueless home" means a home located in a manufactured home community or a mobile home park including all other personal property, where all of the following conditions exist:

a. The home has been abandoned as defined in section 562B.27, subsection 1, and the home has not been removed after the right to possession of the underlying real estate has been terminated pursuant to chapter 648.

b. A lien of record, other than a tax lien as provided in chapter 435, does not exist against the home. A lien exists only if the real property owner receives notice of a lien on the standardized registration form completed by an owner or occupant pursuant to chapter 562B, or a lien has been filed in the state or county records on a date before the home is considered to be valueless.

c. The value of the home and other personal property is equal to or less than the reasonable cost of disposal plus all sums owing to the real property owner pertaining to the home.

Sec. 13. Section 562B.7, Code 2001, is amended to read as follows:  
562B.7 GENERAL DEFINITIONS.

Subject to additional definitions contained in subsequent sections of this chapter which apply to specific sections thereof, and unless the context otherwise requires, in this chapter:

1. "Building and housing codes" include any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any manufactured home community or mobile home park, dwelling unit, or manufactured or mobile home space.

2. "Business" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal or commercial entity which is a landlord, owner, manager, or constructive agent pursuant to section 562B.14.

3. "Dwelling unit" excludes real property used to accommodate a manufactured or mobile home.



4. "Landlord" means the owner, lessor, or sublessor of a manufactured home community or a mobile home park and it also means a manager of the manufactured home community or a mobile home park who fails to disclose as required by section 562B.14.

4A. "Manufactured home community" means the same as land-leased community defined in sections 335.30A and 414.28A.

5. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. References in this chapter to "mobile home" include "manufactured homes" and "modular homes" as those terms are defined in section 435.1, if the manufactured homes or modular homes are located in a manufactured home community or a mobile home park.

6. "Mobile home park" shall mean any site, lot, field or tract of land upon which three or more mobile homes, manufactured homes, or modular homes or a combination of any of these homes are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

7. "Mobile home space" means a parcel of land for rent which has been designed to accommodate a mobile home and provide the required sewer and utility connections.

8. "Owner" means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and a right to present use and enjoyment of the manufactured home community or the mobile home park. The term includes a mortgagee in possession.

9. "Rent" means a payment to be made to the landlord under the rental agreement.

10. "Rental agreement" means agreements, written or those implied by law, and valid rules and regulations adopted under section 562B.19 embodying the terms and conditions concerning the use and occupancy of a mobile home space.

11. "Rental deposit" means a deposit of money to secure performance of a mobile home space rental agreement under this chapter other than a deposit which is exclusively in advance payment of rent.

12. "Tenant" means a person entitled under a rental agreement to occupy a mobile home space to the exclusion of others.

Sec. 14. Section 562B.9, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Any notice required under this chapter ~~given to all tenants of a mobile home park~~, except a written notice of termination required by section 562B.25, subsection 1 or 2, a notice of termination and notice to quit under section 562B.25A, a notice to quit as required by section 648.3, or a petition for forcible entry and detainer pursuant to chapter 648, shall be deemed legally sufficient notice if made by posting at or delivering to each manufactured or mobile home space. The date of posting of the notice shall be written on the notice.

Sec. 15. Sections 103A.3,<sup>2</sup> 103A.30, 103A.31, 321.1, 321.47, 321.123, 321.251, 321.284A, 321.457, 321E.28, 321E.31, 331.429, 331.653, 422.43, 422A.1, 425.17, 426A.11, 427.11, 435.22, 441.17, 445.1, 445.36A, 445.37, 445.38, 515C.1, 534.605, 562B.2, 562B.13, 631.1, 631.4, and 648.3, Code 2001, are amended by inserting before the words "mobile home" the words "manufactured or".

Sec. 16. Sections 103A.9, 135I.4, 306C.10, 321.251, 331.301, 335.30, 414.28, 422.42, 427.1, 435.22, 435.23, 435.24, 435.26, 435.27, 435.28, 435.34, 435.35, 441.17, 555B.1, 555C.2, 555C.3, 555C.4, 557B.1, 562B.1, 562B.13, 562B.14, 562B.15, 562B.16, 562B.17, 562B.18, 562B.19, 562B.22, 562B.23, 562B.24, 562B.32, 648.22A, and 648.22B, Code 2001, are amended by inserting before the words "mobile home park" or "park" the words "manufactured home community or".

<sup>2</sup> See chapter 176, §80 herein

Sec. 17. Sections 321.1, 321.18, 321.20, 321.24, 321.30, 321.45, 321.46, 321.49, 321.50, 321.57, 321.101, 321.104, 321.123, and 423.4, Code 2001, are amended by striking the words “manufactured housing” and inserting in lieu thereof the words “manufactured home”.

Sec. 18. Sections 321.46, 321.49, 321.57, 321.58, and 435.27, Code 2001, are amended by the<sup>3</sup> striking the words “mobile home dealer” or “dealer” and inserting in lieu thereof the words “manufactured home retailer”.

Approved May 21, 2001

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## CHAPTER 154

### HOMESTEAD AND FAMILY FARM TAX CREDITS — MISCELLANEOUS CHANGES

H.F. 712

**AN ACT** relating to the homestead tax credit and to the annual filing for the family farm tax credit, to the notification to the assessor of the change in ownership or the person actively engaged in farming the tract of agricultural land for which the family farm tax credit is allowed, providing a penalty, and including effective and applicability date provisions.

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

Section 1. Section 425.7, subsection 3, unnumbered paragraph 2, Code 2001, is amended to read as follows:

If a claim is disallowed by the director of revenue and finance and not appealed to the state board of tax review or appealed to and upheld by the state board of tax review and a petition for judicial review is not filed with respect to the disallowance, any amounts of credits allowed and paid from the homestead credit fund including the penalty, if any, become a lien upon the property on which credit was originally granted, if still in the hands of the claimant, and not in the hands of a bona fide purchaser, and any amount so erroneously paid including the penalty, if any, shall be collected by the county treasurer in the same manner as other taxes and the collections shall be returned to the department of revenue and finance and credited to the homestead credit fund. The director of revenue and finance may institute legal proceedings against a homestead credit claimant for the collection of payments made on disallowed credits and the penalty, if any. If a person makes a false claim or affidavit with fraudulent intent to obtain the homestead credit, the person is guilty of a fraudulent practice and the claim shall be disallowed in full. If the credit has been paid, the amount of the credit plus a penalty equal to twenty-five percent of the amount of credit plus interest, at the rate in effect under section 421.7, from the time of payment shall be collected by the county treasurer in the same manner as other property taxes, penalty, and interest are collected and when collected shall be paid to the director of revenue and finance. If a homestead credit is disallowed and the claimant failed to give written notice to the assessor as required by section 425.2 when the property ceased to be used as a homestead by the claimant, a civil penalty equal to ~~fifty~~ five percent of the amount of the disallowed credit is assessed against the claimant.

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<sup>3</sup> According to enrolled Act

Sec. 2. Section 425A.4, subsection 1, Code 2001, is amended to read as follows:

1. To apply for the credit, the person shall ~~each year between July 1 and October 15~~ deliver to the county assessor a verified statement and designation of the tracts of agricultural land for which the credit is claimed. The assessor shall return the statement and designation on or before November 15 of each year to the county board of supervisors with a recommendation for allowance or disallowance. A claim for credit filed after November 1 of the year shall be considered as a claim filed for the following year.

Sec. 3. Section 425A.4, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Upon the filing and allowance of the claim, the claim shall be allowed on that tract for successive years without further filing as long as the property is legally or equitably owned by that person or that person's spouse on July 1 of each of those successive years, and the designated person who is actively engaged in farming remains the same during these years. When the property is sold or transferred, the buyer or transferee who wishes to qualify shall file for the credit. However, when the property is transferred as part of a distribution made pursuant to chapter 598, the transferee who is the spouse retaining ownership of the property is not required to file for the credit. In the case where the owner remains the same but the person who is actively engaged in farming changes, the owner shall refile for the credit. The owner shall provide written notice if the person actively engaged in farming changes.

NEW SUBSECTION. 4. The assessor shall retain a permanent file of current family farm credit claims filed in the assessor's office.

The county recorder shall give notice to the assessor of each transfer of title filed in the recorder's office. The notice shall describe the tract of agricultural land transferred, the name of the person transferring the title to the tract, and the name of the person to whom title to the tract has been transferred.

Sec. 4. Section 425A.8, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who fails to notify the assessor of a change in the person who is actively engaged in farming the tract for which the credit under section 425A.3, is allowed shall be liable for the amount of the credit plus a penalty equal to five percent of the amount of the credit. The amounts shall be collected by the county treasurer in the same manner as other property taxes and any penalty are collected and when collected shall be paid to the director of revenue and finance.

Sec. 5. Section 425.14, Code 2001, is repealed.

Sec. 6. This Act takes effect July 1, 2001, and applies to claims for homestead tax credits filed or on file and for family farm tax credits filed on or after that date.

Approved May 21, 2001

**CHAPTER 155****MENTAL HEALTH, MENTAL RETARDATION, AND  
DEVELOPMENTAL DISABILITIES SERVICES***H.F. 727*

**AN ACT** relating to mental health, mental retardation, and developmental disabilities service provisions, including county funding for such services expenditures and placements of persons with serious mental impairments and providing effective and retroactive applicability dates.

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

**DIVISION I  
ALLOWED GROWTH FUNDING POOLS**

Section 1. Section 331.424A, subsection 6, Code 2001, is amended by striking the subsection.

Sec. 2. Section 331.427, subsection 2, paragraph n, Code 2001, is amended by striking the paragraph.

Sec. 3. Section 331.438, subsection 1, paragraph a, unnumbered paragraph 2, Code 2001, is amended by striking the unnumbered paragraph.

Sec. 4. Section 426B.5, subsection 1, paragraphs b, c, and d, Code 2001, are amended to read as follows:

b. A statewide per capita expenditure target amount is established. The statewide per capita expenditure target amount shall be equal to the ~~seventy-fifth~~ one-hundredth percentile of all county per capita expenditures in the fiscal year beginning July 1, 1997, and ending June 30, 1998.

~~c. Only a county levying the maximum amount allowed for the county's mental health, mental retardation, and developmental disabilities services fund under section 331.424A is eligible to receive moneys from the per capita expenditure target pool for a fiscal year. Moneys available in the pool for a fiscal year shall be distributed to those eligible counties whose per capita expenditure in the latest fiscal year for which the actual expenditure information is available is less than the statewide per capita expenditure target amount. Moneys available in the per capita expenditure pool for a fiscal year shall be distributed to those counties who meet all of the following eligibility requirements:~~

(1) The county is levying the maximum amount allowed for the county's mental health, mental retardation, and developmental disabilities services fund under section 331.424A.

(2) The county's per capita expenditure in the latest fiscal year for which the actual expenditure information is available is equal to or less than the statewide per capita expenditure target amount.

(3) In the fiscal year that commenced two years prior to the fiscal year of distribution, the county's mental health, mental retardation, and developmental disabilities services fund ending balance under generally accepted accounting principles was equal to or less than twenty-five percent of the county's actual gross expenditures for the fiscal year that commenced two years prior to the fiscal year of distribution.

(4) The county is in compliance with the filing date requirements under section 331.403.

d. The distribution amount a county receives from the moneys available in the pool shall be determined based upon the county's proportion of the general population of the counties eligible to receive moneys from the pool for that fiscal year. However, a county shall not receive moneys in excess of the amount which would cause the county's per capita expenditure to ~~equal~~ exceed the statewide per capita expenditure target. Moneys credited to the per

capita expenditure target pool which remain unobligated or unexpended at the close of a fiscal year shall remain in the pool for distribution in the succeeding fiscal year.

Sec. 5. Section 426B.5, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 6. Section 426B.5, subsection 3, Code 2001, is amended by adding the following new paragraph before paragraph a and relettering the subsequent paragraphs:

NEW PARAGRAPH. 0a. For the purposes of this subsection, unless the context otherwise requires:

(1) "Net expenditure amount" means a county's gross expenditures from the services fund for a fiscal year as adjusted by subtracting all services fund revenues for that fiscal year that are received from a source other than property taxes, as calculated on a modified accrual basis.

(2) "Services fund" means a county's mental health, mental retardation, and developmental disabilities services fund created in section 331.424A.

Sec. 7. Section 426B.5, subsection 3, paragraph c, subparagraphs (1), (2), and (4), Code 2001, are amended to read as follows:

(1) A county must apply to the board for assistance from the risk pool on or before April 1 to cover an unanticipated ~~cost~~ net expenditure amount in excess of the county's current fiscal year ~~budget~~ budgeted net expenditure amount for the county's ~~mental health, mental retardation, and developmental disabilities~~ services fund. For purposes of applying for risk pool assistance and for repaying unused risk pool assistance, the current fiscal year ~~budget~~ budgeted net expenditure amount shall be deemed to be the higher of either the ~~budget~~ budgeted net expenditure amount in the management plan approved under section 331.439 for the fiscal year in which the application is made or the prior fiscal year's ~~gross expenditures from the services fund~~ net expenditure amount.

(2) Basic eligibility for risk pool assistance shall require a projected ~~need~~ net expenditure amount in excess of the sum of one hundred five percent of the county's current fiscal year ~~budget~~ budgeted net expenditure amount and any amount of the county's prior fiscal year ending fund balance in excess of twenty-five percent of the county's gross expenditures from the services fund in the prior fiscal year. However, if a county's services fund ending balance in the previous fiscal year was less than ten percent of the amount of the county's gross expenditures from the services fund for that fiscal year and the county has a projected net expenditure amount for the current fiscal year that is in excess of one hundred one percent of the budgeted net expenditure amount for the current fiscal year, the county shall be considered to have met the basic eligibility requirement and is qualified for risk pool assistance.

(4) A county receiving risk pool assistance in a fiscal year in which the county did not levy the maximum amount allowed for the county's ~~mental health, mental retardation, and developmental disabilities~~ services fund under section 331.424A shall be required to repay the risk pool assistance during the two succeeding fiscal years. The repayment amount shall be limited to the amount by which the actual amount levied was less than the maximum amount allowed, with at least fifty percent due in the first succeeding fiscal year and the remainder due in the second succeeding fiscal year.

Sec. 8. Section 426B.5, subsection 3, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. On or before March 1 and September 1 of each fiscal year, the department of human services shall provide the risk pool board with a report of the financial condition of each funding source administered by the board. The report shall include but is not limited to an itemization of the funding source's balances, types and amount of revenues credited, and payees and payment amounts for the expenditures made from the funding source during the reporting period.

Sec. 9. 2000 Iowa Acts, chapter 1090, sections 5 and 6, are repealed.

<sup>1</sup> The word "mental" probably intended

Sec. 10. 2000 Iowa Acts, chapter 1232, sections 6, 7, 8, 9, and 10, are repealed.

Sec. 11. EFFECTIVE DATE AND UNOBLIGATED MONEYS BUDGET CERTIFICATION — RETROACTIVE APPLICABILITY.

1. The following sections of this division of this Act, being deemed of immediate importance, take effect upon enactment:

a. The sections of this division of this Act amending Code section 426B.5, subsections 2 and 3, which are applicable to fiscal years beginning on or after July 1, 2001.

b. The sections of this division of this Act amending Code sections 331.424A, 331.427, and 331.438, and repealing 2000 Iowa Acts, chapter 1090, sections 5 and 6, and 2000 Iowa Acts, chapter 1232, sections 6, 7, 8, 9, and 10. In addition, such sections are retroactively applicable to April 13, 2000.

c. This section.

2. Any moneys in the incentive and efficiency pool created in section 426B.5, subsection 2, that remain unencumbered or unobligated at the close of the fiscal year beginning July 1, 2000, shall be credited to the appropriation and allocation for the per capita expenditure target pool for distribution to counties for fiscal year 2001-2002 made in 2000 Iowa Acts, chapter 1232, section 1, subsection 2.

DIVISION II  
DISPUTED BILLINGS

Sec. 12. DISPUTED BILLINGS.

1. To the extent allowable under federal law or regulation, if the costs of a service are payable in whole or in part by a county in accordance with a chapter of the Code listed in this section, the service was rendered prior to July 1, 1997, and the county that would be obligated to pay for the costs of the service has not been billed for the service or has disputed the billing prior to the effective date of this section, or the state has fully charged off the cost of the service to an appropriation made in a prior fiscal year or has not provided information to appropriately document the basis for the billing, the county shall have no obligation to pay for the service.

2. This section is applicable to service costs that are a county obligation under the following chapters of the Code:

a. Chapter 222.

b. Chapter 230.

c. Chapter 249A.

Sec. 13. EFFECTIVE DATE — APPLICABILITY. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION III  
COUNTY BILLING RESPONSIBILITIES

Sec. 14. Section 222.2, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 2A. "Department" means the department of human services.

Sec. 15. Section 222.73, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The superintendent of each resource center and special unit shall compute by February 1 the average daily patient charge and outpatient treatment charges for which each county will be billed for services provided to patients chargeable to the county during the fiscal year beginning the following July 1. The department shall certify the amount of the charges to ~~the director of revenue and finance~~ and notify the counties of the billing charges.

Sec. 16. Section 222.73, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The superintendent shall certify to the ~~director of revenue and finance~~ department the billings to each county for services provided to patients chargeable to the county during the preceding calendar quarter. The county billings shall be based on the average daily patient charge and outpatient treatment charges computed pursuant to subsection 1, and the number of inpatient days and outpatient treatment service units chargeable to the county. The billings to a county of legal settlement are subject to adjustment for all of the following circumstances:

Sec. 17. Section 222.73, subsection 4, Code 2001, is amended to read as follows:

4. The department shall certify to ~~the director of revenue and finance~~ and the counties by February 1 the actual per-patient-per-day costs, as computed pursuant to subsection 3, and the actual costs owed by each county for the immediately preceding calendar year for patients chargeable to the county. If the actual costs owed by the county are greater than the charges billed to the county pursuant to subsection 2, the ~~director of revenue and finance~~ department shall bill the county for the difference with the billing for the quarter ending June 30. If the actual costs owed by the county are less than the charges billed to the county pursuant to subsection 2, the ~~director of revenue and finance~~ department shall credit the county for the difference starting with the billing for the quarter ending June 30.

Sec. 18. Section 222.74, Code 2001, is amended to read as follows:

222.74 DUPLICATE TO COUNTY.

When certifying to the ~~director of revenue and finance~~ department amounts to be charged against each county as provided in section 222.73, the superintendent shall send to the county auditor of each county against which the superintendent has so certified any amount, a duplicate of the ~~certificate~~ certification statement. The county auditor upon receipt of the duplicate ~~certificate~~ certification statement shall enter it to the credit of the state in the ledger of state accounts, and shall immediately issue a notice to the county treasurer authorizing the treasurer to transfer the amount from the county fund to the general state revenue. The county treasurer shall file the notice as authority for making the transfer and shall include the amount transferred in the next remittance of state taxes to the treasurer of state, designating the fund to which the amount belongs.

Sec. 19. Section 222.75, Code 2001, is amended to read as follows:

222.75 DELINQUENT PAYMENTS — PENALTY.

~~Should any~~ If a county fails to pay ~~the bills~~ a billed charge within forty-five days from the date the county auditor received the ~~certificate~~ certification statement from the superintendent pursuant to section 222.74, the ~~director of revenue and finance~~ department may charge the delinquent county a penalty of not greater than one percent per month on and after forty-five days from the date the county auditor received the ~~certificate~~ certification statement until paid.

Sec. 20. Section 222.79, Code 2001, is amended to read as follows:

222.79 CERTIFICATION STATEMENT PRESUMED CORRECT.

In actions to enforce the liability imposed by section 222.78, the ~~certificate~~ certification statement sent from the superintendent to the county auditor pursuant to section 222.74 stating the sums charged in such cases shall be presumptively correct.

Sec. 21. Section 229.41, Code 2001, is amended to read as follows:

229.41 VOLUNTARY ADMISSION.

Persons making application pursuant to section 229.2 on their own behalf or on behalf of another person who is under eighteen years of age, if the person whose admission is sought is received for observation and treatment on the application, shall be required to pay the costs of hospitalization at rates established by the administrator. The costs may be collected weekly in advance and shall be payable at the business office of the hospital. The collections shall be remitted to the ~~director of revenue and finance~~ department of human services monthly to be credited to the general fund of the state.

Sec. 22. Section 229.42, Code 2001, is amended to read as follows:

229.42 COSTS PAID BY COUNTY.

If a person wishing to make application for voluntary admission to a mental hospital established by chapter 226 is unable to pay the costs of hospitalization or those responsible for the person are unable to pay the costs, application for authorization of voluntary admission must be made through a single entry point process before application for admission is made to the hospital. The person's county of legal settlement shall be determined through the single entry point process and if the admission is approved through the single entry point process, the person's admission to a mental health hospital shall be authorized as a voluntary case. The authorization shall be issued on forms provided by the administrator. The costs of the hospitalization shall be paid by the county of legal settlement to the ~~director of revenue and finance~~ department of human services and credited to the general fund of the state, providing the mental health hospital rendering the services has certified to the county auditor of the county of legal settlement the amount chargeable to the county and has sent a duplicate statement of the charges to the ~~director of revenue and finance~~ department of human services. A county shall not be billed for the cost of a patient unless the patient's admission is authorized through the single entry point process. The mental health institute and the county shall work together to locate appropriate alternative placements and services, and to educate patients and family members of patients regarding such alternatives.

All the provisions of chapter 230 shall apply to such voluntary patients so far as is applicable.

The provisions of this section and of section 229.41 shall apply to all voluntary inpatients or outpatients either away from or at the institution ~~heretofore or hereafter~~ receiving mental health services.

~~Should any~~ If a county fail fails to pay ~~these bills~~ the billed charges within forty-five days from the date the county auditor received the ~~certificate~~ certification statement from the superintendent, the ~~director of revenue and finance~~ department of human services shall charge the delinquent county the penalty of one percent per month on and after forty-five days from the date the county received the ~~certificate~~ certification statement until paid. ~~Such~~ The penalties received shall be credited to the general fund of the state.

Sec. 23. Section 230.20, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The superintendent of each mental health institute shall compute by February 1 the average daily patient charges and other service charges for which each county will be billed for services provided to patients chargeable to the county during the fiscal year beginning the following July 1. The department shall certify the amount of the charges ~~to the director of revenue and finance~~ and notify the counties of the billing charges.

Sec. 24. Section 230.20, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. The superintendent shall certify to the ~~director of revenue and finance~~ department the billings to each county for services provided to patients chargeable to the county during the preceding calendar quarter. The county billings shall be based on the average daily patient charge and other service charges computed pursuant to subsection 1, and the number of inpatient days and other service units chargeable to the county. However, a county billing shall be decreased by an amount equal to reimbursement by a third party payor or estimation of such reimbursement from a claim submitted by the superintendent to the third party payor for the preceding calendar quarter. When the actual third party payor reimbursement is greater or less than estimated, the difference shall be reflected in the county billing in the calendar quarter the actual third party payor reimbursement is determined.

Sec. 25. Section 230.20, subsections 4 and 5, Code 2001, are amended to read as follows:

4. The department shall certify to the ~~director of revenue and finance~~ and the counties by February 1 the actual per-patient-per-day costs, as computed pursuant to subsection 3, and



the actual costs owed by each county for the immediately preceding calendar year for patients chargeable to the county. If the actual costs owed by the county are greater than the charges billed to the county pursuant to subsection 2, the ~~director of revenue and finance department~~ shall bill the county for the difference with the billing for the quarter ending June 30. If the actual costs owed by the county are less than the charges billed to the county pursuant to subsection 2, the ~~director of revenue and finance department~~ shall credit the county for the difference starting with the billing for the quarter ending June 30.

5. An individual statement shall be prepared for a patient on or before the fifteenth day of the month following the month in which the patient leaves the mental health institute, and a general statement shall be prepared at least quarterly for each county to which charges are made under this section. Except as otherwise required by sections 125.33 and 125.34 the general statement shall list the name of each patient chargeable to that county who was served by the mental health institute during the preceding month or calendar quarter, the amount due on account of each patient, and the specific dates for which any third party payor reimbursement received by the state is applied to the statement and billing, and the county shall be billed for eighty percent of the stated charge for each patient specified in this subsection. The statement prepared for each county shall be certified by the department ~~to the director of revenue and finance~~ and a duplicate statement shall be mailed to the auditor of that county.

Sec. 26. Section 230.22, Code 2001, is amended to read as follows:  
230.22 PENALTY.

Should any county fail to pay the amount billed by a statement submitted pursuant to section 230.20 within forty-five days from the date the statement is received by the county, the ~~director of revenue and finance department~~ shall charge the delinquent county the penalty of one percent per month on and after forty-five days from the date the statement is received by the county until paid. Provided, however, that the penalty shall not be imposed if the county has notified the ~~director of revenue and finance department~~ of error or questionable items in the billing, in which event, the ~~director of revenue and finance department~~ shall suspend the penalty only during the period of negotiation.

Sec. 27. Section 230.34, Code 2001, is amended by adding the following new subsection:  
NEW SUBSECTION. 4. As used in this chapter, unless the context otherwise requires, "department" means the department of human services.

#### DIVISION IV ACCREDITATION STANDARDS

Sec. 28. Section 225C.6, subsection 1, paragraph e, Code 2001, is amended to read as follows:

e. ~~If no other person~~ Unless another governmental body sets standards for a service available to persons with disabilities, adopt state standards for that service. The commission shall provide that a service provider's compliance with standards for a service set by a nationally recognized body shall be deemed to be in compliance with the state standards adopted by the commission for that service. The commission shall adopt state standards for those residential and community-based providers of services to persons with mental illness or developmental disabilities that are not otherwise subject to licensure by the department of human services or department of inspections and appeals, including but not limited to services payable under the adult rehabilitation option of the medical assistance program and other services payable from funds credited to a county mental health, mental retardation, and developmental disabilities services fund created in section 331.424A. In addition, the commission shall review the licensing standards used by the department of human services or department of inspections and appeals for those facilities providing services to persons with mental illness or developmental disabilities.

DIVISION V  
INVOLUNTARY COMMITMENT PLACEMENTS

Sec. 29. Section 229.6A, subsection 2, Code 2001, is amended to read as follows:

2. The procedural requirements of this chapter are applicable to minors involved in hospitalization proceedings pursuant to subsection 1 and placement proceedings pursuant to section 229.14B.

Sec. 30. Section 229.13, Code 2001, is amended to read as follows:

229.13 EVALUATION ORDER — ~~OUTPATIENT TREATMENT~~ — UNAUTHORIZED DEPARTURE OR FAILURE TO APPEAR.

~~If upon completion of the hearing the court finds that the contention that the respondent has a serious mental impairment is sustained by clear and convincing evidence, the court shall order a respondent whose expenses are payable in whole or in part by a county committed to the care of a hospital or facility designated through the single entry point process, and shall order any other respondent committed to the care of a hospital or a facility licensed to care for persons with mental illness or substance abuse or under the care of a facility that is licensed to care for persons with mental illness or substance abuse on an outpatient basis as expeditiously as possible for a complete psychiatric evaluation and appropriate treatment.~~

1. If upon completion of the hospitalization hearing the court finds by clear and convincing evidence that the respondent has a serious mental impairment, the court shall order the respondent committed as expeditiously as possible for a complete psychiatric evaluation and appropriate treatment as follows:

a. The court shall order a respondent whose expenses are payable in whole or in part by a county placed under the care of an appropriate hospital or facility designated through the single entry point process on an inpatient or outpatient basis.

b. The court shall order any other respondent placed under the care of an appropriate hospital or facility licensed to care for persons with mental illness or substance abuse on an inpatient or outpatient basis.

2. The court shall provide notice to the respondent and the respondent's attorney of the placement order under subsection 1. The court shall advise the respondent and the respondent's attorney that the respondent has a right to request a placement hearing held in accordance with the requirements of section 229.14B.

3. If the respondent is ordered at the a hearing to undergo outpatient treatment, the outpatient treatment provider must be notified and agree to provide the treatment prior to placement of the respondent under the treatment provider's care.

4. The court shall furnish to the chief medical officer of the hospital or facility at the time the respondent arrives at the hospital or facility ~~for inpatient or outpatient treatment~~ a written finding of fact setting forth the evidence on which the finding is based. If the respondent is ordered to undergo outpatient treatment, the order shall also require the respondent to cooperate with the treatment provider and comply with the course of treatment.

5. The chief medical officer of the hospital or facility at which the respondent is placed shall report to the court no more than fifteen days after the individual respondent is admitted to or placed under the care of the hospital or facility, making a recommendation for disposition of the matter. An extension of time may be granted, ~~for~~ not to exceed seven days upon a showing of cause. A copy of the report shall be sent to the respondent's attorney, who may contest the need for an extension of time if one is requested. ~~Extension~~ An extension of time shall be granted upon request unless the request is contested, in which case the court shall make such inquiry as it deems appropriate and may either order the respondent's release from the hospital or facility or grant extension of time for psychiatric evaluation. If the chief medical officer fails to report to the court within fifteen days after the individual is admitted to or placed under the care of the hospital or facility, and ~~no~~ an extension of time has not been requested, the chief medical officer is guilty of contempt and shall be punished under

chapter 665. The court shall order a rehearing on the application to determine whether the respondent should continue to be held detained at or placed under the care of the facility.

6. If, after placement ~~and admission~~ of a respondent in or under the care of a hospital or other suitable facility for inpatient treatment, the respondent departs from the hospital or facility or fails to appear for treatment as ordered without prior proper authorization from the chief medical officer, upon receipt of notification of the respondent's departure or failure to appear by the chief medical officer, a peace officer of the state shall without further order of the court exercise all due diligence to take the respondent into protective custody and return the respondent to the hospital or facility.

Sec. 31. Section 229.14, Code 2001, is amended to read as follows:

229.14 CHIEF MEDICAL OFFICER'S REPORT.

1. The chief medical officer's report to the court on the psychiatric evaluation of the respondent shall be made not later than the expiration of the time specified in section 229.13. At least two copies of the report shall be filed with the clerk, who shall dispose of them in the manner prescribed by section 229.10, subsection 2. The report shall state one of the four following alternative findings:

1- a. That the respondent does not, as of the date of the report, require further treatment for serious mental impairment. If the report so states, the court shall order the respondent's immediate release from involuntary hospitalization and terminate the proceedings.

2- ~~b. That the respondent is seriously mentally impaired and in need of full-time custody, care and inpatient treatment in a hospital, and is considered likely to benefit from treatment. If the report so states, the court shall enter an order which may require the respondent's continued hospitalization for appropriate treatment. The report shall include the chief medical officer's recommendation for further treatment.~~

3- ~~c. That the respondent is seriously mentally impaired and in need of treatment, but does not require full-time hospitalization. If the report so states, it shall include the chief medical officer's recommendation for treatment of the respondent on an outpatient or other appropriate basis, and the court shall enter an order which may direct the respondent to submit to the recommended treatment. The order shall provide that if the respondent fails or refuses to submit to treatment as directed by the court's order, the court may order that the respondent be taken into immediate custody as provided by section 229.11 and, following notice and hearing held in accordance with the procedures of section 229.12, may order the respondent treated as a patient requiring full-time custody, care, and treatment in a hospital until such time as the chief medical officer reports that the respondent does not require further treatment for serious mental impairment or has indicated the respondent is willing to submit to treatment on another basis as ordered by the court. If a patient is transferred for treatment to another provider under this subsection, the treatment provider who will be providing the outpatient or other appropriate treatment shall be provided with relevant court orders by the former treatment provider.~~

4- ~~d. The respondent is seriously mentally impaired and in need of full-time custody and care, but is unlikely to benefit from further inpatient treatment in a hospital. If the report so states, the~~ The report shall include the chief medical officer's recommendation for an appropriate alternative placement for the respondent and the court shall enter an order which may direct the respondent's transfer to the recommended placement.

2. Following receipt of the chief medical officer's report under subsection 1, paragraph "b", "c", or "d", the court shall issue an order for appropriate treatment as follows:

a. For a respondent whose expenses are payable in whole or in part by a county, placement as designated through the single entry point process in the care of an appropriate hospital or facility on an inpatient or outpatient basis, or other appropriate treatment, or in an appropriate alternative placement.

b. For any other respondent, placement in the care of an appropriate hospital or facility on an inpatient or outpatient basis, or other appropriate treatment, or an appropriate alternative placement.

c. A For a respondent who is an inmate in the custody of the department of corrections may, as a court ordered alternative placement, the court may order the respondent to receive mental health services in a correctional program. If the court or the respondent's attorney considers the placement inappropriate, an alternative placement may be arranged upon consultation with the chief medical officer and approval of the court.

d. If the court orders treatment of the respondent on an outpatient or other appropriate basis as described in the chief medical officer's report pursuant to subsection 1, paragraph "c", the order shall provide that, should the respondent fail or refuse to submit to treatment in accordance with the court's order, the court may order that the respondent be taken into immediate custody as provided by section 229.11 and, following notice and hearing held in accordance with the procedures of section 229.12, may order the respondent treated as on an inpatient basis requiring full-time custody, care, and treatment in a hospital until such time as the chief medical officer reports that the respondent does not require further treatment for serious mental impairment or has indicated the respondent is willing to submit to treatment on another basis as ordered by the court. If a patient is transferred for treatment to another provider under this paragraph, the treatment provider who will be providing the outpatient or other appropriate treatment shall be provided with relevant court orders by the former treatment provider.

Sec. 32. Section 229.14A, Code 2001, is amended to read as follows:  
229.14A ESCAPE FROM CUSTODY.

A person who is placed in a hospital or other suitable facility for evaluation under section 229.13 or who is required to remain hospitalized for treatment under section 229.14, ~~subsection 2,~~ shall remain at that hospital or facility unless discharged or otherwise permitted to leave by the court or the chief medical officer of the hospital or facility. If a person placed at a hospital or facility or required to remain at a hospital or facility leaves the facility without permission or without having been discharged, the chief medical officer may notify the sheriff of the person's absence and the sheriff shall take the person into custody and return the person promptly to the hospital or facility.

Sec. 33. NEW SECTION. 229.14B PLACEMENT ORDER — NOTICE AND HEARING.

1. With respect to a chief medical officer's report made pursuant to section 229.14, subsection 1, paragraph "b", "c", or "d", or any other provision of this chapter related to involuntary commitment for which the court issues a placement order or a transfer of placement is authorized, the court shall provide notice to the respondent and the respondent's attorney or mental health advocate pursuant to section 229.19 concerning the placement order and the respondent's right to request a placement hearing to determine if the order for placement or transfer of placement is appropriate.

2. The notice shall provide that a request for a placement hearing must be in writing and filed with the clerk within seven days of issuance of the placement order.

3. A request for a placement hearing may be signed by the respondent, the respondent's next friend, guardian, or attorney.

4. The court, on its own motion, may order a placement hearing to be held.

5. a. A placement hearing shall be held no sooner than four days and no later than seven days after the request for the placement hearing is filed unless otherwise agreed to by the parties.

b. The respondent may be transferred to the placement designated by the court's placement order and receive treatment unless a request for hearing is filed prior to the transfer. If the request for a placement hearing is filed prior to the transfer, the court shall determine where the respondent shall be detained and treated until the date of the hearing.

c. If the respondent's attorney has withdrawn pursuant to section 229.19, the court shall appoint an attorney for the respondent in the manner described in section 229.8, subsection 1.

6. Time periods shall be calculated for the purposes of this section excluding weekends and official holidays.

7. If a respondent's expenses are payable in whole or in part by a county through the single entry point process, notice of a placement hearing shall be provided to the county attorney and the county's single entry point process administrator. At the hearing, the county may present evidence regarding appropriate placement.

8. In a placement hearing, the court shall determine a placement for the respondent in accordance with the requirements of section 229.23, taking into consideration the evidence presented by all the parties.

9. A placement made pursuant to an order entered under section 229.13 or 229.14 or this section shall be considered to be authorized through the single entry point process.

Sec. 34. Section 229.15, subsections 1 through 3, Code 2001, are amended to read as follows:

1. Not more than thirty days after entry of an order for continued hospitalization of a patient under section 229.14, subsection ~~2~~ 1, paragraph "b", and thereafter at successive intervals of not more than sixty days continuing so long as involuntary hospitalization of the patient continues, the chief medical officer of the hospital shall report to the court which entered the order. The report shall be submitted in the manner required by section 229.14, shall state whether the patient's condition has improved, remains unchanged, or has deteriorated, and shall indicate if possible the further length of time the patient will be required to remain at the hospital. The chief medical officer may at any time report to the court a finding as stated in section 229.14, subsection 4 1, and the court shall act ~~thereon~~ upon the finding as required by ~~that~~ section 229.14, subsection 2.

2. Not more than sixty days after the entry of a court order for treatment of a patient pursuant to a report issued under section 229.14, subsection ~~3~~ 1, paragraph "c", and thereafter at successive intervals as ordered by the court but not to exceed ninety days so long as that court order remains in effect, the medical director of the facility treating the patient shall report to the court which entered the order. The report shall state whether the patient's condition has improved, remains unchanged, or has deteriorated, and shall indicate if possible the further length of time the patient will require treatment by the facility. If at any time the patient without good cause fails or refuses to submit to treatment as ordered by the court, the medical director shall at once so notify the court, which shall order the patient hospitalized as provided by section 229.14, subsection ~~3~~ 2, paragraph "d", unless the court finds that the failure or refusal was with good cause and that the patient is willing to receive treatment as provided in the court's order, or in a revised order if the court sees fit to enter one. If at any time the medical director reports to the court that in the director's opinion the patient requires full-time custody, care and treatment in a hospital, and the patient is willing to be admitted voluntarily to the hospital for these purposes, the court may enter an order approving hospitalization for appropriate treatment upon consultation with the chief medical officer of the hospital in which the patient is to be hospitalized. If the patient is unwilling to be admitted voluntarily to the hospital, the procedure for determining involuntary hospitalization, as set out in section 229.14, subsection ~~3~~ 2, paragraph "d", shall be followed.

3. When a patient has been placed in a an alternative facility other than a hospital pursuant to a report issued under section 229.14, subsection 4 1, paragraph "d", a report on the patient's condition and prognosis shall be made to the court which placed the patient, at least once every six months, unless the court authorizes annual reports. If an evaluation of the patient is performed pursuant to section 227.2, subsection 4, a copy of the evaluation report shall be submitted to the court within fifteen days of the evaluation's completion. The court may in its discretion waive the requirement of an additional report between the annual evaluations. If the administrator exercises the authority to remove residents from a county care facility or other county or private institution under section 227.6, the administrator shall promptly notify each court which placed in that facility any resident so removed.

Sec. 35. Section 229.15, subsection 4, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

4. a. When in the opinion of the chief medical officer the best interest of a patient would

be served by a convalescent or limited leave, the chief medical officer may authorize the leave and, if authorized, shall promptly report the leave to the court. When in the opinion of the chief medical officer the best interest of a patient would be served by a transfer to a different hospital for continued full-time custody, care, and treatment, the chief medical officer shall promptly send a report to the court. The court shall act upon the report in accordance with section 229.14B.

b. This subsection shall not be construed to add to or restrict the authority otherwise provided by law for transfer of patients or residents among various state institutions administered by the department of human services. If a patient is transferred under this subsection, the treatment provider to whom the patient is transferred shall be provided with copies of relevant court orders by the former treatment provider.

Sec. 36. Section 229.16, Code 2001, is amended to read as follows:

229.16 DISCHARGE AND TERMINATION OF PROCEEDING.

When the condition of a patient who is hospitalized pursuant to a report issued under section 229.14, subsection ~~2~~ 1, paragraph "b", or is receiving treatment pursuant to a report issued under section 229.14, subsection ~~3~~ 1, paragraph "c", or is in full-time care and custody pursuant to a report issued under section 229.14, subsection ~~4~~ 1, paragraph "d", is such that in the opinion of the chief medical officer the patient no longer requires treatment or care for serious mental impairment, the chief medical officer shall tentatively discharge the patient and immediately report that fact to the court which ordered the patient's hospitalization or care and custody. ~~The court shall thereupon~~ Upon receiving the report, the court shall issue an order confirming the patient's discharge from the hospital or from care and custody, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. Copies of the order shall be sent by regular mail to the hospital, the patient, and the applicant if the applicant has filed a written waiver signed by the patient.

Sec. 37. Section 229.17, Code 2001, is amended to read as follows:

229.17 STATUS OF RESPONDENT DURING APPEAL.

~~Where~~ If a respondent appeals to the supreme court from a finding that the contention the respondent is seriously mentally impaired has been sustained, and the respondent was previously ordered taken into immediate custody under section 229.11 or has been hospitalized for psychiatric evaluation and appropriate treatment under section 229.13 before the court is informed of intent to appeal its finding, the respondent shall remain in custody as previously ordered by the court, the time limit stated in section 229.11 notwithstanding, or shall remain in the hospital subject to compliance by the hospital with sections 229.13 to 229.16, as the case may be, unless the supreme court orders otherwise. If a respondent appeals to the supreme court regarding a placement order, the respondent shall remain in placement unless the supreme court orders otherwise.

Sec. 38. Section 229.21, subsection 3, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Any respondent with respect to whom the magistrate or judicial hospitalization referee has held a placement hearing and has entered a placement order may appeal the order to a judge of the district court. The request for appeal must be given to the clerk in writing within ten days of the entry of the magistrate's or referee's order. The request for appeal shall be signed by the respondent, or the respondent's next friend, guardian, or attorney.

Sec. 39. Section 229.28, Code 2001, is amended to read as follows:

229.28 HOSPITALIZATION IN CERTAIN FEDERAL FACILITIES.

When a court finds that the contention that a respondent is seriously mentally impaired has been sustained or proposes to order continued hospitalization of any person, or an alternative placement, as described under section 229.14, subsection ~~2~~ 1, paragraph "b" or "d", and the court is furnished evidence that the respondent or patient is eligible for care

and treatment in a facility operated by the veterans administration or another agency of the United States government and that the facility is willing to receive the respondent or patient, the court may so order. The respondent or patient, when so hospitalized or placed in a facility operated by the veterans administration or another agency of the United States government within or outside of this state, shall be subject to the rules of the veterans administration or other agency, but shall not thereby lose any procedural rights afforded the respondent or patient by this chapter. The chief officer of the facility shall have, with respect to the person so hospitalized or placed, the same powers and duties as the chief medical officer of a hospital in this state would have in regard to submission of reports to the court, retention of custody, transfer, convalescent leave or discharge. Jurisdiction is retained in the court to maintain surveillance of the person's treatment and care, and at any time to inquire into that person's mental condition and the need for continued hospitalization or care and custody.

Sec. 40. CODIFICATION. The Code editor shall transfer section 229.14A, Code 2001, as amended by this Act to section 229.14B, and shall codify section 229.14B, as enacted by this Act, as section 229.14A.

#### DIVISION VI RELATED PROVISIONS

Sec. 41. Section 225.27, Code 2001, is amended to read as follows:  
225.27 DISCHARGE — TRANSFER.

The state psychiatric hospital may, at any time, discharge any patient as recovered, as improved, or as not likely to be benefited by further treatment. If the patient being so discharged was involuntarily hospitalized, the hospital shall notify the committing judge or court ~~thereof of the discharge~~ as required by section 229.14, ~~subsection 3~~ or section 229.16, whichever is applicable. Upon receiving the notification, the court shall issue an order confirming the patient's discharge from the hospital or from care and custody, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. The court or judge shall, if necessary, appoint ~~some~~ a person to accompany the discharged patient from the state psychiatric hospital to such place as the hospital or the court may designate, or authorize the hospital to appoint such attendant.

Sec. 42. Section 226.26, Code 2001, is amended to read as follows:  
226.26 DANGEROUS PATIENTS.

The administrator, on the recommendation of the superintendent, and on the application of the relatives or friends of a patient who is not cured and who cannot be safely allowed to go at liberty, may release ~~such~~ the patient when fully satisfied that ~~such~~ the relatives or friends will provide and maintain all necessary supervision, care, and restraint over ~~such~~ the patient. If the patient being ~~so~~ released was involuntarily hospitalized, the consent of the district court which ordered the patient's hospitalization ~~placement~~ shall be obtained in advance in substantially the manner prescribed by section 229.14, ~~subsection 3~~.

Sec. 43. Section 226.33, Code 2001, is amended to read as follows:  
226.33 NOTICE TO COURT.

When a patient who was hospitalized involuntarily and who has not fully recovered is discharged from the hospital by the administrator under section 226.32, notice of the order shall at once be sent to the court which ordered the patient's hospitalization, in the manner prescribed by section 229.14, ~~subsection 4~~.

Sec. 44. Section 227.11, Code 2001, is amended to read as follows:  
227.11 TRANSFERS FROM STATE HOSPITALS.

A county chargeable with the expense of a patient in a state hospital for persons with mental illness shall ~~remove such~~ transfer the patient to a county or private institution for

persons with mental illness ~~which has complied~~ that is in compliance with the ~~aforesaid applicable~~ rules when the administrator of the division or the administrator's designee ~~so orders the transfer~~ on a finding that ~~said the~~ patient is suffering from chronic mental illness or from senility and will receive equal benefit by being so transferred. A county shall ~~remove transfer~~ to its county care facility any patient in a state hospital for persons with mental illness upon request of the superintendent of the state hospital in which the patient is confined pursuant to the superintendent's authority under section 229.15, subsection 4, and approval by the board of supervisors of the county of the patient's residence. In no case shall a patient be thus transferred except upon compliance with section ~~229.14, subsection 4,~~ 229.14B or without the written consent of a relative, friend, or guardian if such relative, friend, or guardian pays the expense of the care of such patient in a state hospital. Patients transferred to a public or private facility under this section may subsequently be placed on convalescent or limited leave or transferred to a different facility for continued full-time custody, care, and treatment when, in the opinion of the attending physician or the chief medical officer of the hospital from which the patient was so transferred, the best interest of the patient would be served by such leave or transfer. ~~However, if the patient was originally hospitalized involuntarily, the leave or transfer shall be made in compliance with section 229.15, subsection 4.~~ For any patient who is involuntarily committed, any transfer made under this section is subject to the placement hearing requirements of section 229.14B.

Approved May 21, 2001

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## CHAPTER 156

### CRITERIA FOR STATE ECONOMIC DEVELOPMENT FINANCIAL ASSISTANCE

*S.F. 81*

**AN ACT** relating to limitations on the disbursement of economic development financial assistance moneys by state agencies.

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

Section 1. Section 15A.1, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION. 5.** In addition to the other requirements of this section, a state agency may give additional consideration or additional points in the application of rating or evaluation criteria in providing a grant, loan, or other financial assistance for economic development-related purposes to a person or business for whose benefit the financial assistance is to be provided if the person or business is located in an area that meets one of the following criteria:

- a. The area is a brownfield site as defined in section 15.291.
- b. The area is a blighted area as defined in section 403.17.
- c. The area is located in a city or county that meets the distress criteria provided under the enterprise zone program in section 15E.194, subsection 1 or 2.

Approved May 22, 2001



**CHAPTER 157****COMMUNICABLE AND INFECTIOUS DISEASES AND HIV —  
CARE PROVIDER EXPOSURE — TESTING***H.F. 590*

**AN ACT** relating to the testing of individuals and the release of the results of tests for communicable and infectious diseases and for the human immunodeficiency virus and making penalties applicable.

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

Section 1. Section 139A.2, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 1A. "Care provider" means an individual who is trained and authorized by federal or state law to provide health care services or services of any kind in the course of the individual's official duties, for compensation or in a voluntary capacity, who is a health care provider, emergency medical care provider as defined in section 147A.1, fire fighter, or peace officer. "Care provider" also means an individual who renders emergency care or assistance in an emergency or due to an accident as described in section 613.17.

Sec. 2. Section 139A.2, subsection 6, Code 2001, is amended by striking the subsection.

Sec. 3. Section 139A.2, subsection 7, Code 2001, is amended to read as follows:

7. "Exposure" means the risk of contracting disease as determined by the centers for disease control and prevention of the United States department of health and human services and adopted by rule of the department.

Sec. 4. Section 139A.19, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

**139A.19 CARE PROVIDER NOTIFICATION.**

1. a. Notwithstanding any provision of this chapter to the contrary, if a care provider sustains an exposure from an individual while rendering health care services or other services, the individual to whom the care provider was exposed is deemed to consent to a test to determine if the individual has a contagious or infectious disease and is deemed to consent to notification of the care provider of the results of the test, upon submission of an exposure report by the care provider to the hospital or other person specified in this section to whom the individual is delivered by the care provider. The exposure report form may be incorporated into the Iowa prehospital care report, the Iowa prehospital advanced care report, or a similar report used by an ambulance, rescue, or first response service or law enforcement agency.

b. The hospital or other person specified in this section to whom the individual is delivered shall conduct the test. If the individual is delivered by the care provider to an institution administered by the Iowa department of corrections, the test shall be conducted by the staff physician of the institution. If the individual is delivered by the care provider to a jail, the test shall be conducted by the attending physician of the jail or the county medical examiner. The sample and test results shall only be identified by a number and shall not otherwise identify the individual tested.

c. A hospital, institutions administered by the department of corrections, and jails shall have written policies and procedures for notification of a care provider under this section. The policies and procedures shall include designation of a representative of the care provider to whom notification shall be provided and who shall, in turn, notify the care provider. The identity of the designated representative of the care provider shall not be revealed to the individual tested. The designated representative shall inform the hospital, institution administered by the department of corrections, or jail of those parties who received the notifi-

cation, and following receipt of this information and upon request of the individual tested, the hospital, institution administered by the department of corrections, or jail shall inform the individual of the parties to whom notification was provided.

d. Notwithstanding any other provision of law to the contrary, a care provider may transmit cautions regarding contagious or infectious disease information in the course of the care provider's duties over the police radio broadcasting system under chapter 693 or any other radio-based communications system, if the information transmitted does not personally identify an individual.

2. If the individual tested is diagnosed or confirmed as having a contagious or infectious disease, the hospital, or other person conducting the test shall notify the care provider or the designated representative of the care provider who shall then notify the care provider.

3. The notification to the care provider shall advise the care provider of possible exposure to a particular contagious or infectious disease and recommend that the care provider seek medical attention. The notification shall be provided as soon as is reasonably possible following determination that the individual has a contagious or infectious disease. The notification shall not include the name of the individual tested for the contagious or infectious disease, unless the individual consents. If the care provider who sustained an exposure determines the identity of the individual diagnosed or confirmed as having a contagious or infectious disease, the identity of the individual shall be confidential information and shall not be disclosed by the care provider to any other person unless a specific written release is obtained from the individual diagnosed with or confirmed as having a contagious or infectious disease.

4. This section does not require or permit, unless otherwise provided, a hospital, health care provider, or other person to administer a test for the express purpose of determining the presence of a contagious or infectious disease, except that testing may be performed if the individual consents and if the requirements of this section are satisfied.

5. This section does not preclude a hospital or a health care provider from providing notification to a care provider under circumstances in which the hospital's or health care provider's policy provides for notification of the hospital's or health care provider's own employees of exposure to a contagious or infectious disease that is not life-threatening if the notice does not reveal a patient's name, unless the patient consents.

6. A hospital, health care provider, or other person participating in good faith in complying with provisions authorized or required under this section is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

7. A hospital's or health care provider's duty of notification under this section is not continuing but is limited to a diagnosis of a contagious or infectious disease made in the course of admission, care, and treatment following the rendering of health care services or other services to which notification under this section applies.

7A. A hospital, health care provider, or other person who is authorized to perform a test under this section who performs the test in compliance with this section or who fails to perform the test authorized under this section, is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

7B. A hospital, health care provider, or other person who is authorized to perform a test under this section has no duty to perform the test authorized.

8. The department shall adopt rules pursuant to chapter 17A to administer this section. The department may determine by rule the contagious or infectious diseases for which testing is reasonable and appropriate and which may be administered under this section.

9. The employer of a care provider who sustained an exposure under this section shall pay the costs of testing for the individual who is the source of the exposure and of the testing of the care provider, if the exposure was sustained during the course of employment. However, the department shall pay the costs of testing for the individual who is the source of the significant exposure and of the testing of the care provider who renders direct aid without compensation.

Sec. 5. Section 141A.1, subsection 5, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

5. "Care provider" means an individual who is trained and authorized by federal or state law to provide health care services or services of any kind in the course of the individual's official duties, for compensation or in a voluntary capacity, who is a health care provider, emergency medical care provider as defined in section 147A.1, fire fighter, or peace officer. "Care provider" also means an individual who renders emergency care or assistance in an emergency or due to an accident as described in section 613.17.

Sec. 6. Section 141A.1, subsection 7, Code 2001, is amended by striking the subsection.

Sec. 7. Section 141A.8, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

#### 141A.8 CARE PROVIDER NOTIFICATION.

1. a. Notwithstanding any provision of this chapter to the contrary, if a care provider sustains a significant exposure from an individual, the individual to whom the care provider was exposed is deemed to consent to a test to determine the presence of HIV infection in that individual and is deemed to consent to notification of the care provider of the HIV test results of the individual, upon submission of a significant exposure report by the care provider to the hospital or other person specified in this section to whom the individual is delivered by the care provider. The significant exposure report form may be incorporated into the Iowa prehospital care report, the Iowa prehospital advanced care report, or a similar report used by an ambulance, rescue, or first response service or law enforcement agency.

b. The hospital or other person specified in this section to whom the individual is delivered shall conduct the test. If the individual is delivered by the care provider to an institution administered by the Iowa department of corrections, the test shall be conducted by the staff physician of the institution. If the individual is delivered by the care provider to a jail, the test shall be conducted by the attending physician of the jail or the county medical examiner. The sample and test results shall only be identified by a number and no reports otherwise required by this chapter shall be made which otherwise identify the individual tested.

c. A hospital, institutions administered by the department of corrections, and jails shall have written policies and procedures for notification of a care provider under this section. The policies and procedures shall include designation of a representative of the care provider to whom notification shall be provided and who shall, in turn, notify the care provider. The identity of the designated representative of the care provider shall not be revealed to the individual tested. The designated representative shall inform the hospital, institution administered by the department of corrections, or jail of those parties who received the notification, and following receipt of this information and upon request of the individual tested, the hospital, institution administered by the department of corrections, or jail shall inform the individual of the parties to whom notification was provided.

2. a. If the test results are positive, the hospital, or other person performing the test shall notify the subject of the test and ensure the performance of counseling and reporting requirements of this chapter in the same manner as for an individual from whom actual consent was obtained.

b. If the HIV test results of the subject of the test are positive, the hospital, or other person performing the test shall notify the care provider or the designated representative of the care provider who shall then notify the care provider who sustained the exposure.

c. The notification shall be provided as soon as is reasonably possible following determination that the HIV test results of the subject of the test are positive. The notification shall not include the name of the individual tested for HIV infection, unless the individual provides a specific written release. If the care provider who sustained the significant exposure determines the identity of the individual tested, the identity of the individual shall be confidential information and shall not be disclosed by the care provider to any other person unless a specific written release is obtained from the individual tested.

3. This section does not require or permit, unless otherwise provided, a hospital, health care provider, or other person to administer a test for the express purpose of determining the presence of HIV infection, except that testing may be performed if the individual consents, and if the requirements of this section are satisfied.

4. This section does not preclude a hospital or health care provider from providing notification to a care provider under circumstances in which the hospital's or health care provider's policy provides for notification of the hospital's or health care provider's own employees of exposure to HIV infection if the notice does not reveal a patient's name, unless the patient consents.

5. A hospital, health care provider, or other person participating in good faith in making a report under the notification provisions of this section, under procedures similar to this section for notification of its own employees upon filing of a significant exposure report, or in failing to make a report under this section, is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

6. A hospital's or health care provider's duty to notify under this section is not continuing but is limited to the diagnosis of HIV infection made in the course of admission, care, and treatment following the rendering of health care services or other services to the individual with the infection to which notification under this section applies.

7. Notwithstanding subsection 6, if, following discharge from or completion of care or treatment by a hospital, an individual for whom a significant exposure report was submitted but which report did not result in notification, wishes to provide information regarding the individual's HIV infection status to the care provider who submitted the report, the hospital shall provide a procedure for notifying the care provider.

8. A hospital, health care provider, or other person who is authorized to perform an HIV test under this section, who performs the HIV test in compliance with this section or who fails to perform an HIV test authorized under this section, is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

9. A hospital, health care provider, or other person who is authorized to perform a test under this section has no duty to perform the HIV test authorized.

10. The employer of a care provider who sustained a significant exposure under this section shall pay the costs of HIV testing for the individual who is the source of the significant exposure and of the testing and counseling of the care provider, if the significant exposure was sustained during the course of employment. However, the department shall pay the costs of HIV testing for the individual who is the source of the significant exposure and of the testing and counseling of the care provider who renders direct aid without compensation.

Approved May 22, 2001

## CHAPTER 158

### LIBRARIES, LIBRARY SERVICES, AND ADMINISTRATION AND SCHOOL IMPROVEMENT TECHNOLOGY FUNDS

H.F. 637

**AN ACT** relating to the responsibilities and duties of the department of education, area education agencies, and the commission of libraries, including the renaming of the regional library system, the appointment of trustees for the library service area, and development of a biennial unified plan of service and service delivery in consultation with library service areas and area education agency media centers.

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

Section 1. Section 8D.2, subsection 5, Code 2001, is amended to read as follows:

5. "Public agency" means a state agency, an institution under the control of the board of regents, the judicial branch as provided in section 8D.13, subsection 17, a school corporation, a city library, a ~~regional~~ library service area as provided in chapter 256, a county library as provided in chapter 336, or a judicial district department of correctional services established in section 905.2, to the extent provided in section 8D.13, subsection 15, an agency of the federal government, or a United States post office which receives a federal grant for pilot and demonstration projects.

Sec. 2. Section 8D.9, subsection 1, Code 2001, is amended to read as follows:

1. A private or public agency, other than a state agency, local school district or nonpublic school, city library, ~~regional~~ library service area, county library, judicial branch, judicial district department of correctional services, agency of the federal government, a hospital or physician clinic, or a post office authorized to be offered access pursuant to this chapter as of May 18, 1994, shall certify to the commission no later than July 1, 1994, that the agency is a part of or intends to become a part of the network. Upon receiving such certification from an agency not a part of the network on May 18, 1994, the commission shall provide for the connection of such agency as soon as practical. An agency which does not certify to the commission that the agency is a part of or intends to become a part of the network as required by this subsection shall be prohibited from using the network.

Sec. 3. Section 8D.11, subsection 4, Code 2001, is amended to read as follows:

4. A political subdivision receiving communications services from the state as of April 1, 1986, may continue to do so but communications services shall not be provided or resold to additional political subdivisions other than a school corporation, a city library, a ~~regional~~ library service area as provided in chapter 256, and a county library as provided in chapter 336. The rates charged to the political subdivision shall be the same as the rates charged to state agencies.

Sec. 4. Section 12C.1, subsection 1, Code 2001, is amended to read as follows:

1. All funds held by the following officers or institutions shall be deposited in one or more depositories first approved by the appropriate governing body as indicated: for the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, and sheriff, by the board of supervisors; for the city treasurer or other designated financial officer of a city, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the board of school directors; for a city utility or combined utility system established under chapter 388, by the utility board; for a ~~regional~~ library service area established under chapter 256, by the ~~regional~~ library service area board of ~~library~~ trustees; and for an electric power agency as defined in section 28F.2,<sup>1</sup> by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision or the

<sup>1</sup> See 2001 Iowa Acts, Extraordinary Session, chapter 4, §1 herein

designated financial officer of a city shall invest all funds not needed for current operating expenses in time certificates of deposit in approved depositories pursuant to this chapter or in investments permitted by section 12B.10. The list of public depositories and the amounts severally deposited in the depositories are matters of public record. This subsection does not limit the definition of "public funds" contained in subsection 2. Notwithstanding provisions of this section to the contrary, public funds of a state government deferred compensation plan established by the executive council may also be invested in the investment products authorized under section 509A.12.

Sec. 5. Section 39.11, Code 2001, is amended to read as follows:

39.11 MORE THAN ONE OFFICE PROHIBITED.

Statewide elected officials and members of the general assembly shall not hold more than one elective office at a time. All other elected officials shall not hold more than one elective office at the same level of government at a time. This section does not apply to the following offices: county agricultural extension council, or soil and water conservation district commission, ~~or regional library board of trustees.~~

Sec. 6. Section 39.21, subsection 1, Code 2001, is amended by striking the subsection.

Sec. 7. Section 43.67, subsection 8, Code 2001, is amended to read as follows:

8. A statement that the candidate is aware of the prohibition in section 49.41 against being a candidate for more than one office to be filled at the same election, except county agricultural extension council, and soil and water conservation district commission, ~~and regional library board of trustees.~~

Sec. 8. Section 44.3, subsection 2, paragraph h, Code 2001, is amended to read as follows:

h. A statement that the candidate is aware of the prohibition in section 49.41 against being a candidate for more than one office to be filled at the same election, except county agricultural extension council, and soil and water conservation district commission, ~~and regional library board of trustees.~~

Sec. 9. Section 45.3, subsection 8, Code 2001, is amended to read as follows:

8. A statement that the candidate is aware of the prohibition in section 49.41 against being a candidate for more than one office to be filled at the same election, except county agricultural extension council, and soil and water conservation district commission, ~~and regional library board of trustees.~~

Sec. 10. Section 49.41, unnumbered paragraph 6, Code 2001, is amended to read as follows:

This section does not apply to the ~~following public offices:~~ county agricultural extension council, or the soil and water conservation district commission, ~~or regional library board of trustees.~~

Sec. 11. Section 69.2, subsection 8, Code 2001, is amended to read as follows:

8. The incumbent simultaneously holding more than one elective office at the same level of government. This subsection does not apply to the ~~following offices:~~ county agricultural extension council, or the soil and water conservation district commission, ~~or regional library board of trustees.~~

Sec. 12. Section 256.51, subsection 1, paragraphs d, e, and k, Code 2001, are amended to read as follows:

d. Develop and adopt, in conjunction with the ~~Iowa regional library system~~ service areas, long-range plans for the continued improvement of library services and which will explore or broaden the information mission in the state. To insure that the concerns of all types of libraries are addressed, the division shall establish a long-range planning committee to review and evaluate progress and report findings and recommendations to the division and to the trustees of the ~~Iowa regional library system~~ service areas at an annual meeting.

e. Develop, ~~in cooperation~~ consultation with the ~~Iowa regional library system service areas and the area education agency media centers~~, a biennial unified plan of service and service delivery for the division of libraries and information services.

k. Establish and administer standards for state agency libraries, the ~~Iowa regional library system service areas~~, and public libraries.

Sec. 13. Section 256.60, Code 2001, is amended to read as follows:

256.60 ~~REGIONAL LIBRARY SYSTEM SERVICE AREAS ESTABLISHED~~ — PURPOSES.

~~A regional library system is~~ Library service areas are established as provided in section 256.61 to provide supporting services to libraries, including, but not limited to, consulting, continuing education, and interlibrary loan and reference services, to assure consistency of service statewide, and to encourage local financial support for library services.

Sec. 14. Section 256.61, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

256.61 LIBRARY SERVICE AREAS AND BOARDS OF TRUSTEES.

1. Seven library service areas shall serve and represent seven geographic regions consisting of the following counties:

a. The southwestern area shall serve and represent the counties of Adair, Adams, Audubon, Cass, Clarke, Decatur, Fremont, Guthrie, Harrison, Lucas, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, Union, and Wayne.

b. The northwestern area shall serve and represent the counties of Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Ida, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, and Woodbury.

c. The north central area shall serve and represent the counties of Cerro Gordo, Floyd, Franklin, Hamilton, Hancock, Hardin, Humboldt, Kossuth, Mitchell, Webster, Winnebago, Worth, and Wright.

d. The central area shall serve and represent the counties of Boone, Dallas, Greene, Jasper, Madison, Marion, Marshall, Polk, Story, and Warren.

e. The southeastern area shall serve and represent the counties of Appanoose, Davis, Des Moines, Henry, Jefferson, Keokuk, Lee, Louisa, Mahaska, Monroe, Muscatine, Scott, Van Buren, Wapello, and Washington.

f. The east central area shall serve and represent the counties of Benton, Cedar, Clinton, Iowa, Jackson, Johnson, Jones, Linn, Poweshiek, and Tama.

g. The northeastern area shall serve and represent the counties of Allamakee, Black Hawk, Bremer, Buchanan, Butler, Chickasaw, Clayton, Delaware, Dubuque, Fayette, Grundy, Howard, and Winneshiek.

2. Each area shall have a board of trustees composed of seven members, who shall be appointed as follows:

a. One member shall be appointed mutually by the area education agency media divisions located within the boundaries of the library service area.

b. One member shall be appointed mutually by the boards of trustees of the public libraries located within the boundaries of the library service area.

c. One member shall be appointed mutually by librarians employed by public libraries located within the boundaries of the library service area.

d. One member shall be appointed mutually by the boards of trustees of the community colleges located within the boundaries of the library service area.

e. One member shall be appointed by the commission of libraries to represent library patrons residing within the boundaries of the library service area.

f. Two members shall be appointed by the commission of libraries to represent the public at-large residing within the boundaries of the library service area.

3. All appointments shall comply with sections 69.16 and 69.16A.

4. The members of each library service area board shall be appointed to four-year, staggered terms of office. A term shall be effective on the first of July of the year of appointment

and a vacancy shall be filled for the unexpired term in the same manner as the original appointment.

5. The members of a board shall not receive compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. The expenses of the board members shall be paid from the appropriation to the library service areas.

6. Each board shall elect a chairperson and vice chairperson annually from among its membership. A board shall meet at the call of its chairperson or upon written request of a majority of its membership. Four members constitute a quorum. The concurrence of a majority of the members of a board is required to determine any matter relating to its duties.

7. The commission of libraries shall adopt rules providing for the coordination of appointments made to the board of trustees in accordance with this section.

Sec. 15. Section 256.66, subsections 4, 6, 8 through 10, and 13, Code 2001, are amended to read as follows:

4. May accept and administer trusts and may authorize nonprofit foundations acting solely for the support of the ~~regional~~ library service area to accept and administer trusts deemed by the board to be beneficial to the operation of the ~~regional~~ library service area. Notwithstanding section 633.63, the board and the nonprofit foundation may act as trustees in these instances. The board shall require that moneys belonging to a nonprofit foundation be audited annually.

6. May acquire land and construct or lease facilities to carry out the provisions of ~~sections 256.60 through 256.69~~ this part.

8. Shall provide interlibrary loan and information services ~~intraregionally, but which are capable of being linked interregionally,~~ throughout the area and across area lines according to the standards developed by the commission of libraries.

9. Shall develop and adopt, in cooperation with other members of the ~~regional~~ library system service area and the director of the department of education, a long-range plan for the ~~region~~ area.

10. Shall prepare, in cooperation with all members of the ~~regional~~ library system service area and the director of the department of education, an annual plan of service.

13. May perform other acts necessary to carry out its powers and duties under ~~sections 256.60 through 256.69~~ this part.

Sec. 16. Section 256.66, Code 2001, is amended by adding the following new subsection: **NEW SUBSECTION.** 14. Shall assume all of the outstanding obligations of the regional library and be liable for and recognize, assume, and carry out all valid contracts and obligations of the regional library that the library service area replaces. Each regional library in existence prior to July 1, 2001, shall transfer its assets and title to any real estate owned by the regional library to the library service area that replaces the regional library.

Sec. 17. Section 256.67, Code 2001, is amended to read as follows:

256.67 DUTIES OF THE **REGIONAL AREA** ADMINISTRATOR.

~~A regional~~ An area administrator shall:

1. Act as administrator and executive secretary of the region in accordance with the objectives and policies adopted by the ~~regional~~ area board of trustees and with the intent of this chapter.

2. Organize, staff, and administer the ~~regional~~ library service area so as to render the greatest benefit to libraries and information services in the area.

3. Advise and counsel with the ~~regional~~ area board of trustees and individual libraries in all matters pertaining to the improvement of library services in the ~~region~~ library service area.

4. Cooperate with other members of the ~~regional~~ library system service area, the state library of Iowa and representatives of the Iowa library community in considering and developing plans for the improvement of library services in Iowa.

5. Carry out the policies of the ~~regional~~ board of trustees not inconsistent with state law.



Sec. 18. Section 256.67A, Code 2001, is amended to read as follows:

256.67A INSURANCE ELIGIBILITY.

Personnel employed by a ~~regional~~ library service area shall be considered state employees for purposes of eligibility for receiving employee health and dental insurance as provided to state employees by the department of personnel. If a ~~regional~~ library service area elects to participate in a state employee health and dental insurance program, the ~~regional~~ library service area shall continue to pay the costs of employee participation in a program from funds appropriated for purposes of the ~~regional libraries~~ library service areas by the general assembly.

Sec. 19. Section 256.68, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Funds appropriated for the purpose of carrying out ~~sections 256.60 through 256.69~~ this part shall be ~~allocated to regional~~ distributed equally to the library service area boards by the commission of libraries ~~as follows:~~

Sec. 20. Section 256.68, subsection 1, paragraphs a through c, Code 2001, are amended by striking the paragraphs.

Sec. 21. Section 256.68, subsection 2, Code 2001, is amended to read as follows:

2. In addition to funds received under subsection 1, a ~~regional~~ library service area board of trustees may individually or cooperatively apply to the commission of libraries for available grants.

Sec. 22. Section 256D.8, subsection 3, Code 2001, is amended to read as follows:

3. Funds received by an area education agency pursuant to section 256D.6, subsection 2, shall be expended for the costs related to supporting school districts within the area served with technology planning and equipment, including hardware and software, materials and supplies related to instructional technology and the lease or lease-purchase agreements for those items, employment of or contracting with information technology specialists to provide technical consulting and integration of technology in curriculum and instruction, and staff development and training related to instructional technology. A consortium of area education agencies may cooperatively engage in any of the activities allowed by this section.

Sec. 23. Section 273.2, subsection 4, Code 2001, is amended to read as follows:

4. The area education agency board shall provide for special education services and media services for the local school districts in the area and shall encourage and assist school districts in the area to establish programs for gifted and talented children. The board shall assist in facilitating interlibrary loans of materials between school districts and other libraries. Each area education agency shall include as a member of its media center advisory committee a library service area trustee or library service area staff member, who is appointed to the committee by the commission of libraries.

Sec. 24. Section 273.11, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Support for school district libraries in accordance with section 273.2, subsection 4.

Sec. 25. Section 304.13A, subsection 2, unnumbered paragraph 2, Code 2001, is amended to read as follows:

For purposes of this section, "public library" means a city library, a ~~regional~~ library service area as provided in chapter 256, or a ~~county~~ library district as provided in chapter 336.

Sec. 26. Section 336.2, Code 2001, is amended to read as follows:

336.2 LIBRARY DISTRICTS FORMED.

A ~~county~~ library district may be established composed of one ~~county~~ or two or more

~~adjacent counties and may include or exclude the entirety of a city partly within one of the counties, one or more cities, or any combination of cities and counties.~~

Eligible electors residing within the proposed district in a number not less than five percent of those voting for president of the United States or governor, as the case may be, within ~~said the~~ district at the last general election may petition the board of supervisors of the county ~~or counties, or the city council,~~ for the establishment of ~~such county the~~ library district. ~~Said~~ The petition shall clearly designate the area to be included in the district.

The board of supervisors of each county ~~and the city council of each city~~ containing area within the proposed district shall submit the proposition to the registered voters within their respective counties ~~and cities~~ at any general or primary election provided said election occurs not less than forty days after the filing of the petition.

A ~~county~~ library district shall be established; if a majority of the electors voting on the proposition and residing ~~outside of cities maintaining a free public~~ in the proposed library district favor ~~its establishment.~~

The result of the election within cities maintaining a free public library shall be considered separately, and no city shall be included within the ~~county~~ library district unless a majority of its electors, voting on the proposition, favor its inclusion. In such cases the boundaries of an established district may vary from those of the proposed district.

After the establishment of a ~~county~~ library district other areas may be included by mutual agreement of the board of trustees of the ~~county~~ library district and the governing body of the area sought to be included.

Sec. 27. Section 336.3, Code 2001, is amended to read as follows:

336.3 GIFTS.

When a gift for library purposes is accepted by ~~the a~~ county ~~or city,~~ its use for the ~~county~~ library may be enforced against the board of supervisors ~~or city council~~ by the library board by an action of mandamus or by other proper action.

Sec. 28. Section 336.4, Code 2001, is amended to read as follows:

336.4 LIBRARY TRUSTEES.

In any ~~county or counties~~ area in which a library district has been established in accordance with this chapter, a board of library trustees, consisting of five, seven, or nine electors of the library district, shall be appointed by the board ~~or boards~~ of supervisors of ~~the any~~ county or ~~counties~~ city comprising ~~such the~~ library district. Membership on the library board shall be apportioned between the rural and city areas of the district in proportion to the population in each of such areas. In the event the library district is composed of two or more counties, two or more cities, or any combination of counties and cities, representation on ~~said the~~ library board shall be equitably divided between or among ~~said the~~ counties and cities in proportion to the population in each of ~~such the~~ counties and cities.

Sec. 29. Section 336.10, Code 2001, is amended to read as follows:

336.10 LIBRARY FUND.

All moneys received and set apart for the maintenance of the library shall be deposited in the treasury of the county ~~or city,~~ as determined by the board of library trustees, and paid out upon warrants drawn by the county ~~or city~~ auditor upon requisition of the board of trustees, signed by its president and secretary.

Provided that where a free public library is maintained jointly by two or more counties ~~or cities or any combination of counties and cities,~~ the library trustees may elect a library treasurer ~~therefor,~~ and it shall be the duty of the city and county treasurers to pay over to ~~said the~~ library treasurer any and all library taxes that may be collected by them monthly.

~~Such~~ The library treasurer shall be required to furnish a bond conditioned as provided by section 64.2 in ~~such an~~ amount as agreed upon by the participating boards of supervisors ~~and city councils~~ and the cost ~~thereof~~ shall be paid by the participating counties ~~and cities.~~

Sec. 30. Section 336.11, Code 2001, is amended to read as follows:

336.11 ANNUAL REPORT.

The board of trustees shall, immediately after the close of each fiscal year, ~~make submit~~ to the board of supervisors, and the city council, as appropriate, a report containing a statement of the condition of the library, the number of books added thereto, the number circulated, the number not returned or lost, the amount of fines collected, and the amount of money expended in the maintenance thereof during such year, together with such further information as it may deem important.

Sec. 31. Section 336.12, Code 2001, is amended to read as follows:

336.12 REAL ESTATE ACQUIRED.

In any county or city in which a free library has been established, the board of library trustees may purchase real estate in the name of the county or city for the location of library buildings and branch libraries, and for the purpose of enlarging the grounds ~~thereof~~.

Sec. 32. Section 336.13, Code 2001, is amended to read as follows:

336.13 MAINTENANCE EXPENSE ON PROPORTIONATE BASIS.

The maintenance of a ~~county~~ library established in accordance with this chapter shall be on the basis of each participating unit bearing its share of the total cost in proportion to its population as compared to the total population of the ~~county~~ library district. The board of library trustees shall make an estimate of the amount necessary for the maintenance of the ~~county~~ library, the sources of direct library revenue, and the amount to be contributed from taxes or other revenues by the participating city or county and hold a hearing on the estimate after notice of the hearing is published as provided in section 331.305 or section 362.3, as appropriate. On or before January 10 of each year, the board of library trustees shall transmit the estimate in dollars to the board of supervisors and to the cities participating in the district. The unincorporated area of each county in the library district shall be considered as a separate supporting unit. Each board of supervisors shall review the estimate and appropriate for library purposes its share in the county rural services fund budget. Each city council shall review the estimate for the city and appropriate for library purposes its share in the city general fund budget. Each participating city or county shall contribute its share from taxation or from other sources available for library purposes on an equitable basis. With approval of a city council, the county treasurer may withhold a reasonable portion of the taxes collected for a city to meet the city's contribution for library purposes and deliver a receipt to the city clerk for the amount withheld.

This section shall not affect the taxing authority provided under section 256.69.

Sec. 33. Section 336.14, Code 2001, is amended to read as follows:

336.14 NOT APPLICABLE TO CONTRACT SERVICE.

The provisions of this chapter pertaining to the establishment of a ~~county~~ library district shall not apply to any area receiving library service from any city library, unless the petition for a ~~county~~ library district, in addition to the required signatures of electors, is signed by the governing body of the area receiving library service under contract.

Sec. 34. Section 336.15, Code 2001, is amended to read as follows:

336.15 EXISTING CONTRACTS ASSUMED.

Whenever a ~~county~~ library district is established the in accordance with this chapter, its board of trustees ~~thereof~~ shall assume all the obligations of the existing contracts made by cities, townships, school corporations or counties to receive library service from free public libraries.

Sec. 35. Section 336.16, unnumbered paragraphs 1, 3, 4, and 5, Code 2001, are amended to read as follows:

A city may withdraw from the ~~county~~ library district upon a majority vote in favor of withdrawal by the electorate of the city in an election held on a motion by the city council. The election shall be held simultaneously with a general or city election. Notice of a favor-

able vote to withdraw shall be sent by certified mail to the board of library trustees of the ~~county~~ library district and the county or city auditor, as appropriate, prior to January 10, and the withdrawal shall be effective on July 1.

A city or county election shall not be called until a hearing has been held on the proposal to submit a proposition of withdrawal to an election. A hearing may be held only after public notice published as provided in section 362.3 in the case of a city or section 331.305 in the case of a county. A copy of the notice submitted for publication shall be mailed to the ~~county~~ library on or before the date of publication. The proposal presented at the hearing must include a plan for continuing adequate library service with or without all participants and the respective allocated costs and levels of service shall be stated. At the hearing, any interested person shall be given a reasonable time to be heard, either for or against the withdrawal or the plan to accompany it.

A ~~county~~ library district may be terminated if a majority of the electors of the unincorporated area of the county and the cities included in the ~~county~~ library district voting on the issue favor the termination. The election shall be held upon motion of the board of supervisors and simultaneously with a primary, general, or other county election. If the vote favors termination, the termination shall be effective on the succeeding July 1.

An election for withdrawal from or termination of a ~~county~~ library district shall not be held more than once each four years.

Sec. 36. Section 336.18, subsection 1, Code 2001, is amended to read as follows:

1. A school corporation, township, or ~~county~~ library district may contract for the use by its residents of a city library, ~~but if a contract is made by a county board of supervisors or township trustees, it may only be for the residents outside of cities.~~ A contract by a county shall supersede all contracts by townships or school corporations within the county outside of cities.

Sec. 37. Section 669.2, subsection 5, Code 2001, is amended to read as follows:

5. "State agency" includes all executive departments, agencies, boards, bureaus, and commissions of the state of Iowa, and corporations whose primary function is to act as, and while acting as, instrumentalities or agencies of the state of Iowa, whether or not authorized to sue and be sued in their own names. This definition does not include a contractor with the state of Iowa. Soil and water conservation districts as defined in section 161A.3, subsection 6, judicial district departments of correctional services as established in section 905.2, and ~~regional library service area~~ boards of library trustees as ~~defined~~ established in chapter 256, are state agencies for purposes of this chapter.

Sec. 38. DEPARTMENT OF MANAGEMENT STUDY. The department of management shall coordinate a study of city and county support of public library funding. The department, in cooperation with the commission of libraries, the Iowa league of cities, and the Iowa state association of counties, shall determine whether cities and counties are in compliance with section 256.69 requirements for support of public libraries, identify inequities between city and county funding, and determine the adequacy of the current minimum levy. The department shall develop a plan to provide those support functions and services more effectively and efficiently. The department shall submit a report of its findings and recommendations to the chairpersons and ranking members of the senate and house standing committees on education and the joint appropriations subcommittee on education.

Sec. 39. REGIONAL LIBRARY TERM EXPIRATION DATE. Notwithstanding any provision to the contrary, the terms of the regional library trustees elected in a general election shall expire on July 1, 2001.

Sec. 40. Sections 256.62 through 256.65, Code 2001, are repealed.

**CHAPTER 159**

## EDUCATION — MISCELLANEOUS CHANGES

H.F. 643

**AN ACT** providing statutory revisions relating to the department of education, school districts, and the kindergarten through grade twelve educational program.

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

Section 1. Section 256.11, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The state board shall adopt rules under chapter 17A and a procedure for accrediting all public and nonpublic schools in Iowa offering instruction at any or all levels from the prekindergarten level through grade twelve. The rules of the state board shall require that a multicultural, ~~nonsexist~~ gender fair approach is used by schools and school districts. The educational program shall be taught from a multicultural, ~~nonsexist~~ gender fair approach. Global perspectives shall be incorporated into all levels of the educational program.

Sec. 2. Section 256.11, subsection 7, paragraph c, Code 2001, is amended to read as follows:

c. ~~Programs for at risk~~ At-risk students. ~~Rules adopted by the state board to implement this paragraph shall be based upon the definition of at risk student developed by the child coordinating council established in section 256A.2 and the department of education, and the state board shall consider the recommendations of the child coordinating council and the department in developing the rules.~~

Sec. 3. Section 256.11, subsection 10, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Phase I shall consist of annual monitoring by the department of education of all accredited schools and school districts for compliance with accreditation standards adopted by the state board of education as provided in this section. The phase I monitoring requires that accredited schools and school districts annually complete accreditation compliance forms adopted by the state board and file them with the department of education. Phase I monitoring requires a comprehensive desk audit of all accredited schools and school districts including review of accreditation compliance forms, accreditation visit reports, methods of administration reports, and reports submitted in compliance with ~~sections~~ section 256.7, subsection 21, paragraph "a", and section 280.12 and 280.18.

Sec. 4. Section 256A.4, subsection 1, unnumbered paragraph 2, Code 2001, is amended to read as follows:

A family support program shall meet multicultural ~~nonsexist~~ gender fair guidelines. The program shall encourage parents to be aware of practices that may affect equitable development of children. The program shall include parents in the planning, implementation, and evaluation of the program. A program shall be designed to meet the needs of the residents of the participating district and may use unique approaches to provide for those needs. The goals of a family support program shall include, but are not limited to, the following:

Sec. 5. Section 256D.7, subsection 1, Code 2001, is amended to read as follows:

1. Commencing with the fiscal year beginning July 1, 2001, each school district shall include, ~~a technology plan~~ as a component of the annual report submitted to the department of education in accordance with section 256.7, subsection 21, paragraphs "a" and "c", a progress report on the use of technology. ~~The plan shall be developed by licensed~~ Licensed professional staff of the district, including both teachers and administrators, shall be responsible for implementation of technology integration throughout the district. ~~The plan~~ Technology integration in the classroom shall, at a minimum, focus on the attainment of

student achievement goals on academic and other core indicators, ~~consider~~ utilize the district's interconnectivity with the Iowa communications network, and demonstrate ~~how the board will utilize~~ use of technology to improve student achievement. ~~The technology plan shall be kept on file in the district and a copy of the plan, and any subsequent amendments to the plan, shall be sent to the appropriate area education agency.~~

Sec. 6. Section 257.6, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A school district shall determine its additional enrollment because of special education, as defined in this section, on<sup>1</sup> ~~December~~ November 1 of each year and shall certify its additional enrollment because of special education to the department of education by ~~December~~ November 15 of each year, and the department shall promptly forward the information to the department of management.

Sec. 7. Section 257.6, subsection 5, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Weighted enrollment is the budget enrollment plus the district's additional enrollment because of special education calculated on<sup>2</sup> ~~December~~ November 1 of the base year plus additional pupils added due to the application of the supplementary weighting.

Sec. 8. Section 257.6, Code 2001, is amended by adding the following new subsection:  
NEW SUBSECTION. 6. For the school year beginning July 1, 2001, and each succeeding school year, a student shall not be included in a district's enrollment for purposes of this chapter, or considered an eligible pupil under chapter 261C if the student meets all of the following:

- a. Was eligible to receive a diploma with the class in which they were enrolled and that class graduated in the previous school year.
- b. Continues enrollment in the district to take courses either provided by the district, offered by community colleges under the provisions of section 257.11, or to take courses under the provisions of chapter 261C.

Sec. 9. Section 257.38, subsection 7, Code 2001, is amended to read as follows:

7. Qualifications required of personnel ~~administering~~ delivering the program.

Sec. 10. Section 279.13, subsection 1, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The contract is invalid if the teacher is under contract with another board of directors to teach during the same time period until a release from the other contract is achieved. The contract shall be signed by the president of the board, or by the superintendent if the board has adopted a policy authorizing the superintendent to sign teaching contracts, when tendered, and after it is signed by the teacher, the contract shall be filed with the secretary of the board before the teacher enters into performance under the contract.

Sec. 11. NEW SECTION. 279.59 ACCESS BY ASSOCIATIONS.

The board of directors of a school district shall provide not-for-profit, professional education associations that offer membership to teachers or administrators equal access to teacher or administrator mailboxes for distribution of professional literature.

Sec. 12. Section 280.9, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The board of directors of each local public school district and the authorities in charge of each nonpublic school shall incorporate into the educational program, in accordance with section 256.7, subsection 21, paragraph "a", the total concept of career education to enable students to become familiar with the values of a work-oriented society. Curricular and

<sup>1</sup> See chapter 176, §32 herein

<sup>2</sup> See chapter 176, §33 herein

cocurricular teaching-learning experiences from the prekindergarten level through grade twelve shall be provided for all students currently enrolled in order to develop an understanding that employment may be meaningful and satisfying. However, career education does not mean a separate vocational-technical program is required. A vocational-technical program includes units or partial units in subjects which have as their purpose to equip students with marketable skills.

Sec. 13. Section 280.12, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

**280.12 SCHOOL IMPROVEMENT ADVISORY COMMITTEE.**

The board of directors of each public school district and the authorities in charge of each nonpublic school shall do the following:

1. Appoint a school improvement advisory committee to make recommendations to the board or authorities. The advisory committee shall consist of members representing students, parents, teachers, administrators, and representatives from the local community, which may include representatives of business, industry, labor, community agencies, higher education, or other community constituents. To the extent possible, committee membership shall have balanced representation with regard to race, gender, national origin, and disability.

2. Utilize the recommendations from the school improvement advisory committee to determine the following:

- a. Major educational needs.
- b. Student learning goals.
- c. Long-range and annual improvement goals that include, but are not limited to, the state indicators that address reading, mathematics, and science achievement.
- d. Desired levels of student performance.
- e. Progress toward meeting the goals set out in paragraphs "b" through "d".

Sec. 14. Section 280.19, Code 2001, is amended to read as follows:

**280.19 PLANS FOR AT-RISK CHILDREN.**

The board of directors of each public school district shall incorporate, into the kindergarten admissions program, criteria and procedures for identification and integration of at-risk children and their developmental needs. This incorporation shall be part of the comprehensive school improvement plan developed and implemented in accordance with section 256.7, subsection 21, paragraphs "a" and "c".

Sec. 15. Section 285.12, Code 2001, is amended to read as follows:

**285.12 DISPUTES — HEARINGS AND APPEALS.**

In the event of a disagreement between a school patron and the board of the school district, the patron if dissatisfied with the decision of the district board, may appeal the same to the area education agency board, notifying the secretary of the district in writing within ten days of the decision of the board and by filing an affidavit of appeal with the agency board within the ten-day period. The affidavit of appeal shall include the reasons for the appeal and points at issue. The secretary of the local board on receiving notice of appeal shall certify all papers to the agency board which shall hear the appeal within ten days of the receipt of the papers and decide it within three days of the conclusion of the hearing and shall immediately notify all parties of its decision. Either party may appeal the decision of the agency board to the director of the department of education by notifying the opposite party and the agency administrator in writing within five days after receipt of notice of the decision of the agency board and shall file by filing with the director of the department of education an affidavit of appeal, reasons for appeal, and the facts involved in the disagreement within five days after receipt of notice of the decision of the agency board. The agency administrator shall, within ten days of said notice, file with the director all records and papers pertaining to the case, including action of the agency board. The director shall hear the appeal within fifteen days of the filing of the records in the director's office, notifying all

parties and the agency administrator of the time of hearing. The director shall forthwith decide the same and notify all parties of the decision and return all papers with a copy of the decision to the agency administrator. The decision of the director shall be subject to judicial review in accordance with the terms of the Iowa administrative procedure Act. Pending final order made by the director, upon any appeal prosecuted to such director, the order of the agency board from which the appeal is taken shall be operative and be in full force and effect.

Sec. 16. Section 299A.8, Code 2001, is amended to read as follows:  
299A.8 DUAL ENROLLMENT.

If a parent, guardian, or legal custodian of a child who is receiving competent private instruction under this chapter submits a request, the child shall also be registered in a public school for dual enrollment purposes. If the child is enrolled in a public school district for dual enrollment purposes, the child shall be permitted to participate in any academic activities in the district and shall also be permitted to participate on the same basis as public school children in any extracurricular activities available to children in the child's grade or group, and the parent, guardian, or legal custodian shall not be required to pay the costs of any annual evaluation under this chapter. If the child is enrolled for dual enrollment purposes, the child shall be included in the public school's basic enrollment under section 257.6.<sup>3</sup> A pupil enrolled in grades nine through twelve under this section shall be counted in the same manner as a shared-time pupil under section 257.6, subsection 1, paragraph "c".

Sec. 17. Section 321.194, subsection 1, paragraph b, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Each application shall be accompanied by a statement from the school board, superintendent, or principal, if authorized by the superintendent, of the applicant's school. The statement shall be upon a form provided by the department. The school board, superintendent, or principal, if authorized by the superintendent, shall certify that a need exists for the license and that the board, superintendent, ~~and a~~ or principal authorized by the superintendent are not responsible for actions of the applicant which pertain to the use of the driver's license. ~~The department of education shall adopt rules establishing criteria for issuing a statement of necessity.~~ Upon receipt of a statement of necessity, the department shall issue the driver's license. The fact that the applicant resides at a distance less than one mile from the applicant's ~~schools school~~ of enrollment is prima facie evidence of the nonexistence of necessity for the issuance of a license. The school board shall develop and adopt a policy establishing the criteria that shall be used by a school district administrator to approve or deny certification that a need exists for a license. The student may appeal to the school board the decision of a school district administrator to deny certification. The decision of the school board is final. The driver's license shall not be issued for purposes of attending a public school in a school district other than either of the following:

Sec. 18. Sections 256.40 through 256.43, 258.7, 258.8, and 280.18, Code 2001, are repealed:

Approved May 22, 2001

<sup>3</sup> See chapter 176, §38 herein



**CHAPTER 160****KEEP IOWA BEAUTIFUL FUND — INCOME TAX CHECKOFF***H.F. 737*

**AN ACT** providing an Iowa individual income tax checkoff for deposit in the keep Iowa beautiful fund, making an appropriation, and providing a retroactive applicability date.

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

Section 1. **NEW SECTION. 314.28 KEEP IOWA BEAUTIFUL FUND.**

A keep Iowa beautiful fund is created in the office of the treasurer of state. The fund is composed of moneys appropriated or available to and obtained or accepted by the treasurer of state for deposit in the fund. The fund shall include moneys credited to the fund as provided in section 422.12A. All interest earned on moneys in the fund shall be credited to and remain in the fund. Section 8.33 does not apply to moneys in the fund.

Moneys in the fund are subject to appropriation by the general assembly annually for the purposes of educating and encouraging Iowans to take greater responsibility for improving their community environment and enhancing the beauty of the state through litter prevention, improving waste management and recycling efforts, and beautification projects.

The department may authorize payment of moneys appropriated from the fund to the department upon approval of an application from a private or public organization. The applicant shall submit a plan for litter prevention, improving waste management and recycling efforts, or a beautification project along with its application. The department shall establish standards relating to the type of projects available for assistance.

Sec. 2. **NEW SECTION. 422.12A INCOME TAX REFUND CHECKOFF FOR KEEP IOWA BEAUTIFUL FUND.**

1. A person who files an individual or a joint income tax return with the department of revenue and finance under section 422.13 may designate one dollar or more to be paid to the keep Iowa beautiful fund as created in section 314.28. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the keep Iowa beautiful fund, the amount designated shall be reduced to the remaining amount of refund or the remaining amount remitted with the return. The designation of a contribution to the keep Iowa beautiful fund under this section is irrevocable.

2. The director of revenue and finance shall draft the income tax form to allow the designation of contributions to the keep Iowa beautiful fund on the tax return. The department of revenue and finance, on or before January 31, shall certify the total amount designated on the tax return forms due in the preceding calendar year and shall report the amount to the treasurer of state. The treasurer of state shall credit the amount to the keep Iowa beautiful fund. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of revenue and finance and accounts identified as owing under section 421.17 and the political contribution allowed under section 56.18 shall be satisfied.

3. Moneys in the fund are subject to appropriation as provided in section 314.28.

4. The department of revenue and finance shall adopt rules to administer this section.

5. This section is subject to repeal under section 422.12E.

Sec. 3. **RETROACTIVE APPLICABILITY.** This Act applies retroactively to January 1, 2001, for tax years beginning on or after that date.

Approved May 22, 2001

## CHAPTER 161

### STUDENT ACHIEVEMENT AND TEACHER QUALITY PROGRAM

S.F. 476

**AN ACT** relating to the establishment of a student achievement and teacher quality program and providing for contingent effectiveness.

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

Section 1. **INTENT.** It is the intent of the general assembly to create a student achievement and teacher quality program that acknowledges that outstanding teachers are a key component in student success. The program's goals are to enhance student achievement and to redesign compensation strategies and teachers' professional development. Such compensation strategies are designed to attract and retain high performing teachers, to reward teachers for improving their skills and knowledge in a manner that translates into better student learning, and to reward the staff of school attendance centers for improvement in student achievement.

Sec. 2. **NEW SECTION. 284.1 STUDENT ACHIEVEMENT AND TEACHER QUALITY PROGRAM.**

A student achievement and teacher quality program is established to promote high student achievement. The program shall consist of the following four major elements:

1. Mentoring and induction programs that provide support for beginning teachers in accordance with section 284.5.
2. Career paths with compensation levels that strengthen Iowa's ability to recruit and retain teachers.
3. Professional development designed to directly support best teaching practices.
4. Team-based variable pay that provides additional compensation when student performance improves.

Sec. 3. **NEW SECTION. 284.2 DEFINITIONS.**

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

1. "Beginning teacher" means an individual serving under an initial provisional license, issued by the board of educational examiners under chapter 272, who is assuming a position as a classroom teacher.
2. "Classroom teacher" means an individual who holds a valid practitioner's license and who is employed under a teaching contract with a school district or area education agency in this state to provide classroom instruction to students.
3. "Comprehensive evaluation" means a summative evaluation of a teacher conducted by an evaluator for purposes of performance review, or recommendation for licensure based upon models developed pursuant to section 256.9, subsection 51, and to determine whether the teacher's practice meets the school district expectations for a career, career II, or advanced level.
4. "Department" means the department of education.
5. "Director" means the director of the department of education.
6. "Evaluator" means an administrator or other practitioner who successfully completes an evaluator training program pursuant to section 284.10.
7. "Mentor" means an individual employed by a school district or area education agency as a classroom teacher or a retired teacher who holds a valid license issued under chapter 272. The individual must have a record of four years of successful teaching practice, must be employed as a classroom teacher on a nonprobationary basis, and must demonstrate professional commitment to both the improvement of teaching and learning and the development of beginning teachers.
8. "School board" means the board of directors of a school district or a collaboration of boards of directors of school districts.

9. "State board" means the state board of education.

10. "Teacher" means an individual holding a practitioner's license issued under chapter 272, who is employed as a teacher, librarian, media specialist, or counselor in a nonadministrative position by a school district or area education agency pursuant to a contract issued by a board of directors under section 279.13. A teacher may be employed in both an administrative and a nonadministrative position by a board of directors and shall be considered a part-time teacher for the portion of time that the teacher is employed in a nonadministrative position. "Teacher" includes a licensed individual employed on a less than full-time basis by a school district through a contract between the school district and an institution of higher education with a practitioner preparation program in which the licensed teacher is enrolled.

Sec. 4. NEW SECTION. 284.3 IOWA TEACHING STANDARDS.

1. For purposes of this chapter and for developing teacher evaluation criteria under chapter 279, the Iowa teaching standards are as follows:

- a. Demonstrates ability to enhance academic performance and support for and implementation of the school district's student achievement goals.
- b. Demonstrates competence in content knowledge appropriate to the teaching position.
- c. Demonstrates competence in planning and preparing for instruction.
- d. Uses strategies to deliver instruction that meets the multiple learning needs of students.
- e. Uses a variety of methods to monitor student learning.
- f. Demonstrates competence in classroom management.
- g. Engages in professional growth.
- h. Fulfills professional responsibilities established by the school district.

2. The school board and faculty shall collaborate to further define good teaching by enhancing the Iowa teaching standards in the following manner:

a. For purposes of comprehensive evaluations for beginning teachers, including the comprehensive evaluation required for the beginning teacher to progress to career teacher, the criteria shall be based upon the models developed pursuant to section 256.9, subsection 51, and established pursuant to chapter 20.

b. For purposes of comprehensive evaluations for teachers other than beginning teachers, the school board shall convene the members of the school board and representatives of the faculty, elected by the faculty, to establish criteria based upon the models developed pursuant to section 256.9, subsection 51. If the parties are unable to reach agreement by July 1, immediately after the school year in which a contract period ends, the model criteria shall become the school district's criteria.

Sec. 5. NEW SECTION. 284.4 PARTICIPATION.

1. A school district is eligible to receive moneys appropriated for purposes specified in this chapter if the school board applies to the department to participate in the student achievement and teacher quality program and submits a written statement declaring the school district's willingness to do all of the following:

- a. Commit and expend local moneys to improve student achievement and teacher quality.
- b. Implement a beginning teacher mentoring and induction program as provided in this chapter.

c. Provide, beginning in the second year of participation, the equivalent of two or more additional contract days, outside of instruction time, than were provided in the school year preceding the first year of participation, to provide additional time for teacher career development that aligns with student learning and teacher development needs, including the integration of technology into curriculum development, in order to achieve attendance center and districtwide student achievement goals outlined in the district comprehensive school improvement plan. School districts are encouraged to develop strategies for restructuring the school calendar to provide for the most effective professional development. A school district that provides the equivalent of ten or more contract days for career development is exempt from this paragraph.

- d. Adopt a teacher career development program in accordance with this chapter.
  - e. Adopt a teacher evaluation plan that, at minimum, requires a comprehensive evaluation of teachers in the participating district at least every five years based upon the Iowa teaching standards and requires administrators to complete evaluator training in accordance with section 284.10.
  - f. Adopt teacher career paths based upon demonstrated knowledge and skills in accordance with this chapter.
  - g. Adopt a team-based variable pay plan that rewards attendance center success upon the implementation of a statewide variable pay plan.
2. By July 1, 2003, each school district shall participate in the student achievement and teacher quality program.<sup>1</sup>

Sec. 6. NEW SECTION. 284.5 BEGINNING TEACHER MENTORING AND INDUCTION PROGRAM.

1. A beginning teacher mentoring and induction program is created to promote excellence in teaching, enhance student achievement, build a supportive environment within school districts, increase the retention of promising beginning teachers, and promote the personal and professional well-being of classroom teachers. Prior to the completion of the 2001-2002 school year, a school district shall, at a minimum, provide an approved beginning teacher mentoring and induction program for all classroom teachers who are beginning teachers.

2. The state board shall adopt rules to administer this section.

3. Notwithstanding subsection 1, a school district may provide a beginning teacher mentoring and induction program for all classroom teachers who are beginning teachers in the school years beginning July 1, 2001, and July 1, 2002.<sup>2</sup>

4. Each participating school district shall develop an initial beginning teacher mentoring and induction plan. The plan shall be included in the school district's comprehensive school improvement plan submitted pursuant to section 256.7, subsection 21. The beginning teacher mentoring and induction plan shall, at a minimum, provide for a two-year sequence of induction program content and activities to support the Iowa teaching standards and beginning teacher professional and personal needs; mentor training that includes, at a minimum, skills of classroom demonstration and coaching, and district expectations for beginning teacher competence on Iowa teaching standards; placement of mentors and beginning teachers; the process for dissolving mentor and beginning teacher partnerships; district organizational support for released time for mentors and beginning teachers to plan, provide demonstration of classroom practices, observe teaching, and provide feedback; structure for mentor selection and assignment of mentors to beginning teachers; a district facilitator; and program evaluation.

5. A beginning teacher shall be informed by the school district, prior to the beginning teacher's participation in a mentoring and induction program, of the criteria upon which the beginning teacher shall be evaluated and of the evaluation process utilized by the school district.

6. Upon completion of the program, the beginning teacher shall be comprehensively evaluated to determine if the teacher meets expectations to move to the career level. The school district shall recommend a beginning teacher who has successfully completed the program for an educational license. A school district may offer a teacher a third year of participation in the program if, after conducting a comprehensive evaluation, the school district determines that the teacher is likely to successfully complete the mentoring and induction program by the end of the third year of eligibility. A teacher granted a third year of eligibility shall develop a teacher's mentoring and induction program plan in accordance with this chapter and shall undergo a comprehensive evaluation at the end of the third year. The board of educational examiners shall grant a one-year extension of the beginning teacher's provisional license upon notification by the school district that the teacher will participate in a third year of the school district's program.

<sup>1</sup> See chapter 177, §3 herein

<sup>2</sup> See chapter 177, §4 herein

Sec. 7. NEW SECTION. 284.6 TEACHER CAREER DEVELOPMENT.

1. The department shall coordinate a statewide network of career development for Iowa teachers. A participating school district or career development provider that offers a career development program in accordance with section 256.9, subsection 51, shall demonstrate that the program contains the following:

a. Support that meets the career development needs of individual teachers and is aligned with the Iowa teaching standards.

b. Research-based instructional strategies aligned with the school district's student achievement needs and the long-range improvement goals established by the district.

c. Instructional improvement components including student achievement data, analysis, theory, classroom demonstration and practice, technology integration, observation, reflection, and peer coaching.

d. An evaluation component that documents the improvement in instructional practice and the effect on student learning.

2. The department shall identify models of career development practices that produce evidence of the link between teacher training and improved student learning.

3. A participating school district shall incorporate a district career development plan into the district's comprehensive school improvement plan submitted to the department in accordance with section 256.7, subsection 21. The district career development plan shall include a description of the means by which the school district will provide access to all teachers in the district to career development programs or offerings that meet the requirements of subsection 1. The plan shall align all career development with the school district's long-range student learning goals and the Iowa teaching standards. The plan shall indicate the school district's approved career development provider or providers.

4. In cooperation with the teacher's supervisor, the teacher employed by a participating school district shall develop an individual teacher career development plan. The individual plan shall be based, at minimum, on the needs of the teacher, the Iowa teaching standards, and the student achievement goals of the attendance center and the school district as outlined in the comprehensive school improvement plan. The individual plan shall be reviewed by the teacher and the teacher's supervisor at the teacher's annual review, and shall be modified as necessary to reflect the individual teacher's and the school district's needs and the individual's progress in the plan.

5. School districts, a consortium of school districts, area education agencies, higher education institutions, and other public or private entities including professional associations may be approved by the state board to provide teacher career development. The career development program or offering shall, at minimum, meet the requirements of subsection 1. The state board shall adopt rules for the approval of career development providers and standards for the district career development plan.

Sec. 8. NEW SECTION. 284.7 IOWA TEACHER CAREER PATH.

To promote continuous improvement in Iowa's quality teaching workforce and to give Iowa teachers the opportunity for career recognition that reflects the various roles teachers play as educational leaders, an Iowa teacher career path is established for teachers employed by participating school districts. A participating school district shall raise teacher salaries to meet the requirements of this section.<sup>3</sup> The Iowa teacher career path and salary minimums are as follows:

1. Effective July 1, 2001, the following career path levels are established and shall be implemented in accordance with this chapter:

a. **BEGINNING TEACHER.**

(1) A beginning teacher is a teacher who meets the following requirements:

(a) Has successfully completed an approved practitioner preparation program as defined in section 272.1.

(b) Holds a provisional teacher license issued by the board of educational examiners.

<sup>3</sup> See chapter 177, §5 herein

(c) Participates in the beginning teacher mentoring and induction program as provided in this chapter.

(2) The participating district shall increase the district's minimum salary for a first-year beginning teacher by at least one thousand five hundred dollars per year above the minimum salary paid to a first-year beginning teacher in the previous year unless the minimum salary for a first-year beginning teacher exceeds twenty-eight thousand dollars.

b. CAREER TEACHER.

(1) A career teacher is a teacher who meets the following requirements:

(a) Has successfully completed the beginning teacher mentoring and induction program and has successfully completed a comprehensive evaluation as provided in this chapter.

(b) Is reviewed by the school district as demonstrating the competencies of a career teacher.

(c) Holds a valid license issued by the board of educational examiners.

(d) Participates in teacher career development as set forth in this chapter and demonstrates continuous improvement in teaching.

(2) The participating district shall provide a two thousand dollar difference between the average beginning teacher salary and the minimum career teacher salary, unless the school district has a minimum career teacher salary that exceeds thirty thousand dollars.

2. It is the intent of the general assembly to establish and require the implementation of and provide for the implementation of the following additional career path levels by July 1, 2003:

a. CAREER II TEACHER.

(1) A career II teacher is a teacher who meets the requirements of subsection 1, paragraph "b", has met the requirements established by the school district that employs the teacher, and is evaluated by the school district as demonstrating the competencies of a career II teacher. The teacher shall have successfully completed a comprehensive evaluation in order to be classified as a career II teacher.

(2) It is the intent of the general assembly that the participating district shall establish a minimum salary for a career II teacher that is at least five thousand dollars greater than the minimum career teacher salary. It is further intended that the district shall adopt a plan that facilitates the transition of a career teacher to a career II level.

b. ADVANCED TEACHER.

(1) An advanced teacher is a teacher who meets the following requirements:

(a) Receives the recommendation of the review panel that the teacher possesses superior teaching skills and that the teacher should be classified as an advanced teacher.

(b) Holds a valid license from the board of educational examiners.

(c) Participates in teacher career development as outlined in this chapter and demonstrates continuous improvement in teaching.

(d) Possesses the skills and qualifications to assume leadership roles.

(2) It is the intent of the general assembly that the participating district shall establish a minimum salary for an advanced teacher that is at least thirteen thousand five hundred dollars greater than the minimum career teacher salary. In conjunction with the development of the review panel pursuant to section 284.9, the department shall make recommendations to the general assembly by January 1, 2002, regarding the appropriate district-to-district recognition for advanced teachers and methods that facilitate the transition of a teacher to the advanced level.

3. A teacher shall be promoted one level at a time and a teacher promoted to the next career level shall remain at that level for at least one year before requesting promotion to the next career level.

4. If a comprehensive evaluation for a teacher is conducted in the fifth year of the teacher's status at the career level, and indicates that the teacher's practice no longer meets the standards for that level, a comprehensive evaluation shall be conducted in the next following school year. If the comprehensive evaluation establishes that the teacher's practice fails to meet the standards for that level, the teacher shall be ineligible for any additional pay increase other than a cost of living increase.<sup>4</sup>

<sup>4</sup> See chapter 177, §6 herein

5. A teacher employed in a participating district shall not receive less compensation in that participating district than the teacher received in the school year, preceding participation, as set forth in section 284.4 due to implementation of this chapter. A teacher who achieves national board for professional teaching standards certification and meets the requirements of section 256.44 shall continue to receive the award as specified in section 256.44 in addition to the compensation set forth in this section.

Sec. 9. NEW SECTION. 284.8 EVALUATION REQUIREMENTS FOR CAREER, CAREER II, AND ADVANCED TEACHERS.

1. Notwithstanding section 284.4, subsection 2, effective July 1, 2004, teacher performance shall be reviewed annually for purposes of assisting the teacher in making continuous improvement. The annual review shall be conducted by a certified evaluator who shall be selected by an administrator after consultation with the teacher. School districts are encouraged to make available time for and to utilize peer review and peer coaching techniques when conducting the annual review. The annual review need not be conducted if the teacher has been comprehensively reviewed during the same school year. The review shall include classroom observation of the teacher and should include supporting documentation from other supervisors, parents, and students.

2. In addition to evaluations agreed upon under chapter 20, a teacher shall be comprehensively evaluated based on the provisions of section 284.3 at least once every five years. Comprehensive evaluations shall be conducted by an administrator or the administrator's designee certified pursuant to section 284.10. The evaluation shall include, at minimum, classroom observation of the teacher, the teacher's progress and implementation of the teacher's individual career development plan; should include supporting documentation from other supervisors, teachers, parents, and students; and may include video portfolios as evidence of teaching practices. A teacher may be comprehensively evaluated for purposes of performance review or recommendation for licensure, and shall be comprehensively evaluated for advancement in the career path established pursuant to section 284.7.

3. If a teacher is denied advancement based upon a comprehensive evaluation, the teacher may appeal the decision to an adjudicator under the process established under section 279.17. However, the decision of the adjudicator is final. If a district does not recommend a teacher for continued employment or licensure based upon a comprehensive evaluation, the provisions of sections 279.14, 279.17, and 279.18 shall apply. A teacher may file one cause of action objecting to the contents or procedures of a comprehensive evaluation and the objections shall not be subject to the grievance procedures negotiated in accordance with chapter 20.

4. This section applies only to career, career II, and advanced teachers.

Sec. 10. NEW SECTION. 284.9 REVIEW PANEL.

1. A career II teacher seeking to receive an advanced designation shall submit a portfolio of work evidence aligned with the Iowa teaching standards to a review panel established in accordance with subsection 2. A majority of the evidence in the portfolio shall be classroom-based. The review panel shall evaluate the career II teacher's portfolio to determine whether the teacher demonstrates superior teaching skills and shall make a recommendation to the board of educational examiners whether or not the teacher shall receive an advanced designation. The standards for recommendation include, but are not limited to, meeting the Iowa teaching standards at an advanced level.

2. The department shall establish up to five regional review panels consisting of five members per panel. Each panel shall include, at a minimum, a nationally board-certified teacher and a school district administrator. Panel members shall be appointed by the director and shall possess the knowledge necessary to determine the quality of the evidence submitted in an applicant's portfolio. Panel members shall serve a staggered three-year term and may be reappointed to a second term. The department shall provide support and evaluation training for panel members and convene panels as needed.<sup>5</sup>

<sup>5</sup> See chapter 177, §7 herein

3. To assure fairness and consistency in the evaluation process, the review panels may perform random audits of the comprehensive evaluations conducted by evaluators throughout the state, and may randomly review performance-based evaluation models developed by school districts in accordance with section 284.3, subsection 2. The review of the evaluation models shall ensure that the model is at least equivalent to the state models developed pursuant to section 256.9, subsection 51.

4. A teacher who does not receive a recommendation from a review panel may appeal that denial to an administrative law judge located in the department of inspections and appeals. The state shall not be liable for a teacher's attorney fees, costs, or damages that may result from an appeal of a review panel's decision. The state board shall adopt rules to administer this section.

Sec. 11. NEW SECTION. 284.10 EVALUATOR TRAINING PROGRAM.

1. The department shall establish an evaluator training program to improve the skills of school district evaluators in making employment decisions, making recommendations for licensure, and moving teachers through a career path as established under this chapter. The department shall consult with persons representing teachers, national board-certified teachers, administrators, school boards, higher education institutions with approved practitioner and administrator preparation programs, and with persons from the private sector knowledgeable in employment evaluation and evaluator training in order to develop standards and requirements for the program. Evaluator training programs offered pursuant to this chapter may be provided by a public or private entity. The department shall distribute a list of evaluator training program providers to each school district.

2. a. An administrator licensed under chapter 272 who conducts evaluations of teachers for purposes of this chapter shall complete the evaluator training program. A practitioner licensed under chapter 272 who is not an administrator may enroll in the evaluator training program. Enrollment preference shall be given to administrators. Upon successful completion, the provider shall certify that the administrator or other practitioner is qualified to conduct evaluations for employment, make recommendations for licensure, and make recommendations that a teacher is qualified to advance from one career path level to the next career path level pursuant to this chapter. Certification is for a period of five years and may be renewed.

b. However, an administrator licensed in accordance with section 272.2, subsection 13, paragraph "a", shall not be eligible to enroll in the evaluator training program.<sup>6</sup>

3. Effective until July 1, 2004, a school district shall pay the amount of one thousand dollars for each individual who is licensed as a practitioner under chapter 272 on or after July 1, 2001, and who has been certified in accordance with this section.<sup>7</sup> By October 1 annually, the school district shall notify the department of education of the number of individuals who have achieved certification in accordance with this section, and shall submit any documentation requested by the department.

4. By July 1, 2002, a higher education institution approved by the state board to provide an administrator preparation program shall incorporate the evaluator training program into the program offered by the institution.

5. Beginning July 1, 2002, the board of educational examiners shall require certification as a condition of issuing or renewing an administrator's license.

6. By July 1, 2004, the director shall develop and implement an evaluator training certification renewal program for administrators and other practitioners who need to renew a certificate issued pursuant to this section.

Sec. 12. NEW SECTION. 284.11 PILOT PROGRAM FOR TEAM-BASED VARIABLE PAY FOR STUDENT ACHIEVEMENT.

1. It is the intent of the general assembly to create a statewide team-based variable pay program to reward individual attendance centers for improvement in student achievement. A pilot program is established to give Iowa school districts with one or more participating

<sup>6</sup> See this chapter, §25 herein

<sup>7</sup> See chapter 177, §8 herein



attendance centers the opportunity to explore and demonstrate successful methods to implement team-based variable pay. The department shall develop and administer the pilot program. Each school district approved by the department to participate in the pilot program shall administer valid and reliable standardized assessments at the beginning and end of the school year to demonstrate growth in student achievement.

2. All licensed practitioners employed at a participating attendance center that has demonstrated improvement in student achievement shall share in a cash award.<sup>8</sup> However, the school district is encouraged to extend cash awards to other staff employed at the attendance center.

3. The principal, with the participation of a team of licensed practitioners appointed by the principal, at each participating attendance center within a school district shall annually submit district attendance center student performance goals to the school board for approval. The attendance center goals must be aligned with the school improvement goals for the district developed in accordance with section 256.7, subsection 21. The district shall determine the designation of an attendance center for purposes of this section. The attendance center student performance goals may differ from attendance center to attendance center and may contain goals and indicators in addition to the comprehensive school improvement plan. An attendance center shall demonstrate student achievement through the use of multiple measures that are valid and reliable.

4. Each participating district shall create its own design for a team-based pay plan linked to the district's comprehensive school improvement plan. The plan must include attendance center student performance goals, student performance levels, multiple indicators to determine progress toward attendance center goals, and a system for providing financial rewards. The team-based pay plan shall be approved by the local board.

5. Each district team-based pay plan shall be reviewed by the department. The department shall include a review of the locally established goals, targeted levels of improvement, assessment strategies, and financial reward system.<sup>9</sup>

6. A district electing to initiate a team-based variable pay plan according to this section during the school year beginning July 1, 2001, shall notify the department of its election in writing no later than August 1, 2001. The department shall certify the school district plan by October 1, 2001.

Sec. 13. NEW SECTION. 284.12 REPORT.

1. The department shall annually report the statewide progress on the following:

a. Student achievement scores in mathematics and reading at the fourth and eighth grade levels on a district-by-district basis as reported to the local communities pursuant to section 256.7, subsection 21, paragraph "c".

b. Evaluator training program.

c. Team-based variable pay for student achievement.

d. Changes and improvements in the evaluation of teachers under the Iowa teaching standards.

2. The report shall be made available to the chairpersons and ranking members of the senate and house committees on education, the legislative education accountability and oversight committee, the deans of the colleges of education at approved practitioner preparation institutions in this state, the state board, the governor, and school districts by January 1. School districts shall provide information as required by the department for the compilation of the report and for accounting and auditing purposes.

3. The<sup>10</sup> department shall provide for a comprehensive independent evaluation of all components of the student achievement and teacher quality program and shall submit the results of the evaluation in the report submitted pursuant to subsection 2 by January 1, 2007.

4. The board of educational examiners shall compile statistical information from the results of the examinations administered pursuant to section 272.2, subsection 17. The

<sup>8</sup> See chapter 177, §9 herein

<sup>9</sup> See chapter 177, §10 herein

<sup>10</sup> See chapter 177, §11 herein

information compiled shall identify the practitioner preparation programs from which the applicants graduated, but shall not identify applicants individually. The statistical information compiled by the board pursuant to this subsection is a public record. The board shall submit a review of the statistical information to the chairpersons and ranking members of the senate and house committees on education and the state board by December 1, 2003.

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

Sec. 14. Section 256.9, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 51. Develop core knowledge and skill criteria models, based upon the Iowa teaching standards, for the evaluation, the advancement, and for teacher career development purposes pursuant to chapter 284. The model criteria shall further define the characteristics of quality teaching as established by the Iowa teaching standards.

Sec. 15. Section 272.2, subsection 1, Code 2001, is amended to read as follows:

1. a. License practitioners; who do not hold or receive a license from another professional licensing board, ~~and professional development programs, except for programs developed and offered by practitioner preparation institutions or area education agencies and approved by the state board of education.~~ Licensing authority includes the authority to establish criteria for the licenses, ~~including but not limited to, establish~~ issuance and renewal requirements, ~~creation of~~ create application and renewal forms, ~~creation of~~ create licenses that authorize different instructional functions or specialties, ~~development of~~ develop a code of professional rights and responsibilities, practice, and ethics, and ~~the authority to~~ develop any other classifications, distinctions, and procedures which may be necessary to exercise licensing duties. A code of professional rights and responsibilities, practice, and ethics shall address but not be limited to the habitual failure of a practitioner to fulfill contractual obligations under section 279.13.

b. Notwithstanding section 272.28, subsection 1, a teacher shall be licensed in accordance with rules adopted pursuant to chapter 272, Code 2001, if the teacher successfully completes a beginning teacher mentoring program approved pursuant to chapter 256E<sup>11</sup> on or before June 30, 2002, or is employed by a school district that does not offer a beginning teacher mentoring and induction program approved in accordance with this chapter during the school year beginning July 1, 2001.

Sec. 16. Section 272.2, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 17. a. Administer the Praxis II examination for knowledge of pedagogies and for not more than one content area to each individual who is applying for a provisional license prior to issuance of the license.

b. Examination fees for the examination required under this subsection shall be paid by the board.<sup>12</sup> Costs incurred for additional content area examinations shall be paid by the applicant.

c. This subsection is repealed effective June 30, 2003.

Sec. 17. NEW SECTION. 272.28 MENTORING AND INDUCTION REQUIREMENT.

1. Effective July 1, 2003, requirements for teacher licensure beyond a provisional license shall include successful completion of a beginning teacher mentoring and induction program approved by the state board of education.

2. A teacher from an accredited nonpublic school or another state or country is exempt from the requirement of subsection 1 if the teacher can document three years of successful

<sup>11</sup> Chapter 256E, "Code 2001," probably intended; see this chapter, §20 herein

<sup>12</sup> See chapter 177, §13 herein

teaching experience within the past five years and meet or exceed the requirements contained in rules adopted under this chapter for endorsement and licensure.

Sec. 18. Section 279.19, unnumbered paragraph 2, Code 2001, is amended to read as follows:

In the case of the termination of a probationary teacher's contract, the provisions of sections 279.15 and 279.16 shall apply. However, if the probationary teacher is a beginning teacher who fails to successfully complete a beginning teacher mentoring and induction program in accordance with chapter 284, the provisions of sections 279.17 and 279.18 shall also apply.

Sec. 19. Section 294A.14, unnumbered paragraphs 3 and 4, Code 2001, are amended to read as follows:

A plan shall be developed using the procedure specified under section 294A.15. The plan shall provide for the establishment of a performance-based pay plan, a supplemental pay plan, a combination of the two pay plans, or comprehensive school transformation programs, and shall include a budget for the cost of implementing the plan. In addition to the costs of providing additional salary for teachers and the amount required to pay the employers' share of the federal social security and Iowa public employees' retirement system, or a pension and annuity retirement system established under chapter 294, and payments on the additional salary, the budget may include costs associated with providing specialized or general training. Moneys received under phase III shall not be used to employ additional employees of a school district, except that phase III moneys may be used to employ substitute teachers, part-time teachers, and other employees needed to implement plans that provide innovative staffing patterns, ~~or that~~ require that a teacher employed on a full-time basis be absent from the classroom for specified periods for fulfilling other instructional duties or to participate on a peer review team or in peer coaching efforts. However, all teachers employed are eligible to receive additional salary under an approved plan.

For the purpose of this section, a performance-based pay plan shall provide for salary increases for teachers who demonstrate superior performance in completing assigned duties. The plan shall include the method used to determine superior performance of a teacher. For school districts, the plan may include assessments of ~~specific teaching behavior~~ performance, assessments of student performance, assessments of other characteristics associated with effective teaching, or a combination of these criteria.

Sec. 20. Chapter 256E, Code 2001, is repealed.

Sec. 21. Section 272.33, Code 2001, is repealed effective July 1, 2002.

Sec. 22. PRACTITIONER PREPARATION CREDIT TRANSFER STUDY. The state board of regents shall conduct a study of the transfer of credits between practitioner preparation institutions, both in-state and out-of-state, to determine whether the transfer of credits by practitioner preparation institutions is fair and consistent. The state board shall collect information relating to the transfer and acceptance of credits from a representative sample of in-state and out-of-state practitioner preparation institutions. The state board shall identify actions that may be taken to improve the ability of a student to transfer credits earned in one practitioner preparation institution to another. The state board shall submit its findings and recommendations in a report to the senate and house of representatives standing committees on education by December 1, 2001.

Sec. 23. LEGISLATIVE EDUCATION ACCOUNTABILITY AND OVERSIGHT COMMITTEE. The legislative council is requested to establish a two-year legislative education accountability and oversight committee to conduct a comprehensive study of team-based variable pay and make recommendations for the implementation of a team-based variable pay plan component of the student achievement and teacher quality program.<sup>13</sup>

<sup>13</sup> See chapter 177, §14 herein

The committee shall recommend the manner in which standards of performance are to be determined, the level of expected growth, the development of a student academic database, the timeline and procedure for the collection of student achievement data, identification of the structures of a team for purposes of equitable operation of the plan, and a timeline for implementation of the plan. The committee shall recommend assessment models for use in accurately measuring student achievement. The committee may recommend additional measures and reviews for the purpose of strengthening comprehensive school improvement plans through the implementation of team-based variable pay plans. The committee shall monitor the progress of team-based variable pay pilot programs.

The committee shall recommend a means of evaluation designed to determine the effect of the student achievement and teacher quality plan on raising student achievement. The committee shall submit preliminary recommendations to the general assembly by December 15, 2001, and shall make its final recommendations to the general assembly by December 15, 2002.

The committee shall be composed of six voting members representing both political parties and both houses of the general assembly. Three members shall be appointed by the president of the senate, after consultation with the majority leader of the senate and the minority leader of the senate. The remaining three members shall be appointed by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives.

The committee shall also include the following ex officio, nonvoting members:

1. The director of the department of education or the director's designee.
2. One member who shall be appointed by the Iowa association of school boards.
3. One member who shall be appointed by the school administrators of Iowa.
4. Two members who shall be appointed independently by the state's two largest professional teachers associations.
5. One member who shall be appointed by the governor to represent the office of the governor.

It is the intent of the general assembly that the legislative education accountability and oversight committee oversee the policies established pursuant to this Act.

**Sec. 24. STATE MANDATE FUNDING SPECIFIED.** In accordance with section 25B.2, subsection 3, the state cost of requiring compliance with any state mandate included in this Act shall be paid by a school district from state school foundation aid received by the school district under section 257.16. This specification of the payment of the state cost shall be deemed to meet all the state funding-related requirements of section 25B.2, subsection 3, and no additional state funding shall be necessary for the full implementation of this Act by and enforcement of this Act against all affected school districts.

**Sec. 25. CONTINGENT EFFECTIVENESS.** Section 284.10, subsection 2, paragraph "b", as enacted in this Act, takes effect only if 2001 Iowa Acts, House File 670<sup>14</sup> is enacted.

Approved May 23, 2001

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<sup>14</sup> House File 670 vetoed

## CHAPTER 162 GRAPE AND WINE DEVELOPMENT

S.F. 524

**AN ACT** providing assistance regarding the development of grapes and wine and providing for tax revenue and an appropriation.

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

Section 1. Section 123.183, Code 2001, is amended to read as follows:

123.183 WINE GALLONAGE TAX AND RELATED FUNDS.

1. In addition to the annual permit fee to be paid by each class "A" wine permittee, there a wine gallonage tax shall be levied and collected from each class "A" wine permittee on all wine manufactured for sale and sold in this state at wholesale and on all wine imported into this state for sale at wholesale and sold in this state at wholesale, a. The rate of the wine gallonage tax of is one dollar and seventy-five cents for every each wine gallon and a like. The same rate shall apply for the fractional parts of a wine gallon. A The wine gallonage tax shall not be levied or collected on wine sold by one class "A" wine permittee to another class "A" wine permittee.

2. a. Revenue derived collected from the wine gallonage tax collected on wine manufactured for sale and sold in this state shall be deposited in the wine gallonage tax fund hereby as created in this section.

b. A wine gallonage tax fund is created in the office of the treasurer of state. Moneys deposited in the gallonage tax the fund are appropriated to the department of economic development as provided in section 15E.117. Moneys in the fund shall not revert to the general fund of the state without a specific appropriation by the general assembly are not subject to section 8.33.

3. All other The revenue collected from the wine gallonage tax on wine imported into this state for sale at wholesale and sold in this state at wholesale shall be deposited as follows:

a. The revenue actually collected during each fiscal year from the wine gallonage tax on wine imported into this state at wholesale and sold in this state at wholesale that is in excess of the revenue estimated to be collected from such tax as last agreed to by the state revenue estimating conference during the previous fiscal year as provided in section 8.22A shall be deposited in the grape and wine development fund as created in section 159B.5. However, not more than seventy-five thousand dollars from such tax shall be deposited into the grape and wine development fund during any fiscal year.

b. The remaining revenue derived collected from the wine gallonage tax on wine imported into this state for sale at wholesale and sold in this state at wholesale shall be deposited in the liquor control fund established by created in section 123.53 and shall be transferred by the director of revenue and finance to the general fund of the state.

Sec. 2. NEW SECTION. 159B.1 DEFINITIONS.

1. "Commission" means the grape and wine development commission as established pursuant to section 159B.2.

2. "Department" means the department of agriculture and land stewardship.

3. "Fund" means the grape and wine development fund created pursuant to section 159B.5.

4. "Grower" means a person who owns a vineyard and is actively engaged in growing grapes on a commercial basis in this state for use by a winery.

5. "Retail seller" means a person actively engaged in the business of selling wine in this state on a retail basis.

6. "Vineyard" means a tract of land used for growing grapes used in making wine.

7. "Wine" means the same as defined in section 123.3.

8. "Winemaker" means a person who owns a winery and is actively engaged in producing wine in this state on a commercial basis.

9. "Winery" means a commercial operation using grapes for the production of wine on a commercial basis.

Sec. 3. NEW SECTION. 159B.2 GRAPE AND WINE DEVELOPMENT COMMISSION.

1. A grape and wine development commission is established within the department. The commission shall be composed of the following persons:

a. The following persons, or their designees, who shall serve as nonvoting, ex officio members:

(1) The secretary of agriculture.

(2) The dean of the college of agriculture of Iowa state university of science and technology.

(3) The director of the department of economic development.

(4) The director of the department of natural resources.

b. The following persons appointed by the secretary of agriculture, who shall serve as voting members:

(1) Two growers.

(2) Two winemakers.

(3) One retail seller.

The secretary of agriculture shall appoint the voting members based on a list of nominations submitted by organizations representing growers, winemakers, and retail sellers as certified by the department according to requirements of the department. Appointments of voting members are subject to the requirements of sections 69.16 and 69.16A. In addition, the appointments shall be geographically balanced. Unless the secretary of agriculture determines that it is not feasible, at least one person appointed as a voting member shall reside in each of the state's congressional districts at the time of appointment. The secretary of agriculture's appointees shall be confirmed by the senate, pursuant to section 2.32.

2. The voting members shall serve three-year terms beginning and ending as provided in section 69.19. However, the secretary of agriculture shall appoint initial members to serve for less than three years to ensure members serve staggered terms. A member is eligible for reappointment. A vacancy on the commission shall be filled for the unexpired portion of the regular term in the same manner as regular appointments are made.

3. The commission shall elect a chairperson from among its voting members each year on a rotating basis as provided by the commission. The commission shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of two or more voting members.

4. Members are not entitled to receive compensation or reimbursement of expenses from the department as otherwise provided in section 7E.6.

5. Three voting members constitute a quorum and the affirmative vote of a majority of the voting members present is necessary for any substantive action to be taken by the commission. The majority shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the duties of the commission.

Sec. 4. NEW SECTION. 159B.3 ADMINISTRATION.

1. The department shall administer this chapter and shall do all of the following:

a. Establish and administer grape and wine development programs as provided in section 159B.4 and account for and expend moneys from the grape and wine development fund created pursuant to section 159B.5.

b. Report to the commission regarding the status of grape and wine development, including information regarding persons receiving assistance under grape and wine development programs as provided in section 159B.4 and the status of the grape and wine development fund as provided in section 159B.5.

c. Provide facilities for the commission to meet and carry out its powers and duties as provided in this section, including by staffing commission meetings.

d. Adopt all rules necessary to administer this chapter.

2. The grape and wine development commission shall oversee the administration of this chapter by the department and shall do all of the following:

a. Monitor conditions, practices, policies, and programs affecting the grape and wine development in this state.

b. Establish mutually beneficial relationships with local, state, and federal governmental agencies and local, regional, and national associations representing growers and winemakers.

c. Contract with a viticulturist or oenologist to provide technical assistance under grape and wine development programs as provided in section 159B.4.

d. Approve or disapprove applications for financial assistance under grape and wine development programs as provided in section 159B.4, after departmental review and recommendation and in accordance with rules adopted pursuant to this chapter. The department shall adopt rules for awarding moneys to persons submitting proposals, including procedures for submitting applications and criteria for selecting proposals.

e. Approve rules proposed by the department for adoption pursuant to chapter 17A required for the administration of this chapter.

Sec. 5. NEW SECTION. 159B.4 GRAPE AND WINE DEVELOPMENT PROGRAMS.

The department in cooperation with the commission shall establish grape and wine development programs, by assisting persons in establishing, improving, or expanding vineyards or winemaking operations, including wineries. To every extent feasible, the programs shall provide assistance to persons located in all regions of the state. The programs may provide for all of the following:

1. Technical assistance which may include all the following:

a. Viticultural assistance in order to increase the size of vineyards, improve yield, and enhance the character, composition, and condition of grapes. The department may provide technical assistance regarding the selection and management of vines suitable for regions of this state; cultivation and harvest practices; the implementation of practices designed to improve grape growing based on soil types, nutrients and minerals, space, climate, and drainage; the use of recommended varieties of native or hybrid cultivars; and disease, weed, and pest control, including the safe and effective application of pesticides or herbicides or the use of organic practices.

b. Oenological assistance which may be based on oenological study in order to produce, preserve, and transport commercially viable wines, including high-quality wines, wines adapted to particular regions of the state, and wines with distinctive tastes produced from native or hybrid cultivars. The technical assistance may include assistance regarding improving practices or constructing facilities designed to expand or improve processing, cellarage, or bottling.

2. Financial assistance which shall be in the form of a loan, forgivable loan, loan guarantee, cost share, indemnification of costs, or any combination of such financing as deemed appropriate by the commission. The financial assistance may be awarded to persons beginning or engaged in grape growing or winemaking, based on a sound business plan that demonstrates the viability of the proposed operations.

Sec. 6. NEW SECTION. 159B.5 GRAPE AND WINE DEVELOPMENT FUND.

1. A grape and wine development fund is created in the state treasury under the control of the department. The fund is composed of moneys appropriated by the general assembly and moneys available to and obtained or accepted by the department from the United States or private sources for placement in the fund. The fund shall include moneys deposited into the fund from the wine gallonage tax as provided in section 123.183.

2. Moneys in the fund are appropriated to the department exclusively to carry out grape and wine development programs as provided in section 159B.4, including contracting with a viticulturist or oenologist to provide technical assistance and to provide financial assistance to growers and winemakers as provided in that section.

3. Section 8.33 shall not apply to moneys in the fund. Notwithstanding section 12C.7, moneys earned as income or interest from the fund shall remain in the fund until expended as provided in this section.

Approved May 23, 2001

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## CHAPTER 163

### UNEMPLOYMENT COMPENSATION — NATURAL DISASTERS

S.F. 98

**AN ACT** concerning unemployment compensation by relieving unemployment compensation charges for employees who become unemployed due to a presidentially declared disaster and providing effective and retroactive applicability dates.

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

Section 1. Section 96.7, subsection 2, paragraph a, subparagraph (2), Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The account of an employer shall not be charged with benefits paid to an individual for unemployment that is directly caused by a major natural disaster declared by the president of the United States, pursuant to the federal Disaster Relief Act of 1974, if the individual would have been eligible for federal disaster unemployment assistance benefits with respect to that unemployment but for the individual's receipt of regular benefits.

Sec. 2. **EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.** This Act, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to January 1, 2001, to employer accounts for benefits paid to individuals as provided in section 1 of this Act.

Approved May 25, 2001

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## CHAPTER 164

### TOBACCO SETTLEMENT PROGRAM — MISCELLANEOUS CHANGES

S.F. 532

**AN ACT** relating to matters related to the tobacco settlement including the tobacco settlement authority, the tobacco settlement trust fund, and the tobacco settlement endowment fund, and providing an effective date.

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

Section 1. Section 12.65, Code 2001, is amended to read as follows:

12.65 HEALTHY IOWANS TOBACCO SETTLEMENT ENDOWMENT FUND TRUST.

1. A healthy Iowans tobacco ~~settlement endowment fund~~ trust is created in the office of



the treasurer of state. ~~After payment of litigation costs, all moneys paid to the state pursuant to the master settlement agreement, as defined in section 453C.1, Moneys transferred to the healthy Iowans tobacco trust from the endowment for Iowa's health account of the tobacco settlement trust fund established in section 12E.12 and appropriated or transferred from any other source shall be deposited in the fund healthy Iowans tobacco trust.~~

~~2. Any moneys paid to the state by the tobacco settlement authority pursuant to chapter 12E shall be deposited in the fund. Additionally, the state's share of the moneys which are not sold to the tobacco settlement authority pursuant to chapter 12E shall be deposited in the fund.~~

~~3. 2. Moneys deposited in the fund healthy Iowans tobacco trust shall be used only in accordance with appropriations from the fund healthy Iowans tobacco trust for purposes related to health care, substance abuse treatment and enforcement, tobacco use prevention and control, and other purposes related to the needs of children, adults, and families in the state.~~

~~4. A savings account for healthy Iowans is created within the tobacco settlement endowment fund. Moneys, appropriated annually, shall be deposited in the account and shall be invested to provide an ongoing source of investment earnings.~~

~~5. 3. Notwithstanding section 8.33, any unexpended balance in the fund healthy Iowans tobacco trust at the end of the fiscal year shall be retained in the fund trust. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the healthy Iowans tobacco settlement endowment fund, in the savings account for healthy Iowans, and in any other account established within the fund trust shall be credited to the healthy Iowans tobacco settlement endowment fund, to the savings account for healthy Iowans, or to any other account established, respectively trust.~~

~~6. For the purposes of this section, "litigation costs" are those costs itemized by the attorney general and submitted to and approved by the attorney general.~~

~~7. 4. Moneys in the fund healthy Iowans tobacco trust shall be considered part of the general fund of the state for cash flow purposes only, provided any moneys used for cash flow purposes are returned to the fund trust by the close of each fiscal year.<sup>1</sup>~~

Sec. 2. Section 12E.2, Code 2001, is amended by adding the following new subsections:  
NEW SUBSECTION. 4A. "Healthy Iowans tobacco trust" means the healthy Iowans tobacco trust created in section 12.65.

NEW SUBSECTION. 4B. "Interest rate agreement" means an interest rate swap or exchange agreement, an agreement establishing an interest rate floor or ceiling or both, or any similar agreement. Any such agreement may include the option to enter into or cancel the agreement or to reverse or extend the agreement.

NEW SUBSECTION. 5A. "Net proceeds" means the amount of proceeds remaining following each sale of bonds which are not required by the authority to establish and fund reserve funds and to pay the costs of issuance and other expenses and fees directly related to the authorization and issuance of bonds.

Sec. 3. Section 12E.2, subsections 7, 8, and 10, Code 2001, are amended to read as follows:

7. "Program plan" means the tobacco settlement program plan established in this chapter dated February 14, 2001, including exhibits to the program plan, submitted by the authority to the legislative council and the executive council, to provide the state with a secure and stable source of funding for the purposes designated by this chapter and section 12.65.

8. "Qualified investments" means investments of the authority authorized by pursuant to this chapter.

10. "State's share" means all of the state's monetary rights and interests, all rights of enforcement, and all rights necessary and convenient for enforcement of those monetary rights and interests in the master settlement agreement following:

a. All payments required to be made by tobacco product manufacturers to the state, and the state's rights to receive such payments, under the master settlement agreement.

<sup>1</sup> See chapter 184, §§, 16 herein

b. To the extent that such amounts have been assigned to the state, all payments of attorney fees required to be made by tobacco product manufacturers under the master settlement agreement, and all rights to receive such attorney fees.

Sec. 4. Section 12E.2, Code 2001, is amended by adding the following new subsections:  
NEW SUBSECTION. 10A. "Tax-exempt bonds" means bonds issued by the authority that are accompanied by a written opinion of legal counsel to the authority that the bonds are excluded from the gross income of the recipients for federal income tax purposes.

NEW SUBSECTION. 10B. "Taxable bonds" means bonds issued by the authority that are not accompanied by a written opinion of legal counsel to the authority that the bonds are excluded from the gross income of the recipients for federal income tax purposes.

Sec. 5. Section 12E.2, subsection 11, Code 2001, is amended by striking the subsection.

Sec. 6. Section 12E.3, subsection 2, paragraphs a and d, Code 2001, are amended to read as follows:

a. To implement and administer the program plan and to establish a stable source of revenue to be used for the purposes designated in this chapter and section 12.65.

d. To sell, pledge, or assign, as security or consideration, all or a portion of the state's share sold to the authority pursuant to a sales agreement, to provide for and secure the issuance and repayment of its bonds.

Sec. 7. Section 12E.8, subsection 1, paragraphs g and h, Code 2001, are amended to read as follows:

g. The power to invest or deposit moneys of or held by the authority in any manner determined by the authority, notwithstanding chapter 12B or 12C.

h. The power to procure insurance, other credit enhancements, and other financing arrangements, and to execute instruments and contracts and to enter into agreements convenient or necessary to facilitate financing arrangements of the authority and to fulfill the purposes of the authority under this chapter, including but not limited to such arrangements, instruments, contracts, and agreements as municipal bond insurance, liquidity facilities, interest rate agreements, and letters of credit.

Sec. 8. Section 12E.8, subsection 1, Code 2001, is amended by adding the following new paragraphs:

NEW PARAGRAPH. k. The power to acquire, own, hold, administer, and dispose of property.

NEW PARAGRAPH. l. The power to determine, in connection with the issuance of bonds, and subject to the sales agreement, the terms and other details of financing, and the method of implementation of the program plan.

NEW PARAGRAPH. m. The power to perform any act not inconsistent with federal or state law necessary to carry out the purposes of the authority.

Sec. 9. Section 12E.9, subsection 1, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

1. a. The governor or the governor's designee shall sell and assign all or a portion of the state's share to the authority pursuant to one or more sales agreements for the purpose of securitization as described in the program plan and as specified in section 12E.10. The attorney general shall assist the governor in the preparation and review of all necessary documentation to effect such a sale as soon as reasonably practicable.

b. Any sales agreement shall be consistent with the program plan and this chapter. The terms and conditions of the sale established in such sales agreement may include but are not limited to any of the following:

(1) A requirement that the state enforce, at the sole expense of the authority, the provisions of the master settlement agreement that require payment of the state's share that has been sold to the authority under a sales agreement.

(2) A requirement that the state not agree to any amendment of the master settlement agreement that materially and adversely affects the authority's ability to receive the state's share that has been sold to the authority.

(3) An agreement that the anticipated use by the state of bond proceeds received pursuant to the sales agreement shall be for capital projects, certain debt service on outstanding obligations that funded capital projects, payment of attorney fees related to the master settlement agreement, and to provide a secure and stable source of funding to the state for purposes designated by this chapter and section 12.65.

(4) A statement that the net proceeds from the sale of bonds shall be deposited in the tobacco settlement trust fund established under section 12E.12 and that in no event shall the amounts in the trust fund be available or be applied for payment of bonds or any claim against the authority or any debt or obligation of the authority.

(5) A requirement that the net proceeds received by the authority from the sale of any tax-exempt bonds issued to provide funds for capital projects, certain debt service, and attorney fees related to the master settlement agreement be paid by the authority to the state as consideration for the sale of that portion of the state's share, that such net proceeds be deposited by the state upon receipt in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund, and that such proceeds are to be held by the authority solely for the benefit of the state, subject to annual appropriation by the state in accordance with section 12E.10, subsection 1, paragraph "b".

(6) A requirement that the net proceeds received by the authority from the sale of taxable bonds or tax-exempt bonds issued to provide funds for the purposes specified in section 12.65 be deposited in the endowment for Iowa's health account of the tobacco settlement trust fund as moneys of the authority until transferred to the state pursuant to section 12E.12, subsection 1, paragraph "b", subparagraph (2). Each amount transferred shall be the consideration received by the state for that portion of the state's share.

(7) An agreement that the effective date of the sale is the date of receipt of the bond proceeds by the authority and the deposits of the net proceeds of the tax-exempt bonds and any taxable bonds in the respective accounts of the tobacco settlement trust fund.

Sec. 10. Section 12E.9, subsection 5, Code 2001, is amended to read as follows:

5. The authority, the treasurer of state, and the attorney general shall report to the legislative council and the executive council on or before the date ~~specified in the program plan of the sale~~, advising them of the ~~accomplishment~~ status of the sale, its terms, and conditions.

Sec. 11. Section 12E.10, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

12E.10 TOBACCO SETTLEMENT PROGRAM PLAN.

1. a. (1) The authority shall implement the program plan and shall proceed with a securitization to maximize the transference of risks associated with the master settlement agreement.

(2) The authority shall issue tax-exempt bonds in an amount that is sufficient to provide net proceeds in an amount of not more than five hundred forty million dollars for deposit in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund, to be used for capital projects, certain debt service on outstanding obligations which funded capital projects, and attorney fees related to the master settlement agreement.

(3) The authority may also issue taxable bonds or tax-exempt bonds to provide additional amounts to be used for the purposes specified in section 12.65.

(4) Notwithstanding subparagraphs (1) and (2), the authority is not required to issue tax-exempt bonds if the authority determines that the issuance would not be in the best interest of the state due to market conditions.

b. It is the expectation of the state that not less than eighty-five percent of the proceeds deposited in the tax-exempt bond proceeds restricted capital funds account of the tobacco

settlement trust fund will be expended within five years from the effective date of the sale, consistent with the requirements of federal law, and that the specific capital projects, debt service, and attorney fees payments shall be determined, annually, through appropriations authorized by a constitutional majority of each house of the general assembly and approved by the governor.<sup>2</sup>

2. The authority shall periodically report to the legislative council and the governor regarding implementation of the program plan and shall, prior to any public offering of bonds, submit a report to the legislative council and the governor describing the terms of the proposed bond issue.

3. Any amendment to the program plan shall be authorized by a constitutional majority of each house of the general assembly and approved by the governor.

4. To the extent that any provision of the program plan is inconsistent with this chapter, the provisions of this chapter shall govern.

Sec. 12. Section 12E.11, subsections 1, 4, and 5, Code 2001, are amended to read as follows:

1. The authority may issue bonds and ~~use, if bonds are issued, shall make the proceeds from the bonds for the purpose of providing available to the state pursuant to the sales agreement to fund capital projects, certain debt service on outstanding obligations that funded capital projects, and attorney fees related to the master settlement agreement, and to provide~~ a secure and stable source of funding to the state, consistent with the purposes of this chapter ~~and section 12.65. In connection with the issuance of bonds and subject to the terms of the sales agreement, the authority shall determine the terms and other details of the financing and the method of implementation of the program plan.~~ Bonds issued pursuant to this section may be secured by a pledge of all or a portion of the state's share and any moneys derived from the state's share, and any other sources available to the authority with the exception of moneys in the tobacco settlement trust fund. The authority may also issue refunding bonds, including advance refunding bonds, for the purpose of refunding previously issued bonds, and may issue other types of bonds, debt obligations, and financing arrangements necessary to fulfill its purposes or the purposes of this chapter.

4. Bonds shall state on their face that they are payable both as to principal and interest solely out of the assets of the authority pledged for their purpose and do not constitute an indebtedness of the state or any political subdivision of the state; are secured solely by and payable solely from ~~receipts under the master settlement agreement~~ assets of the authority pledged for such purpose; constitute neither a general, legal, or moral obligation of the state or any of its political subdivisions; and that the state has no obligation or intention to satisfy any deficiency or default of any payment of the bonds.

5. Any amount pledged by the authority to be received under the master settlement agreement shall be valid and binding at the time the pledge is made. ~~Receipts~~ Amounts so pledged and then or thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the authority, whether such parties have notice of the lien. Notwithstanding any other provision to the contrary, the resolution of the authority or any other instrument by which a pledge is created need not be recorded or filed to perfect such pledge.

Sec. 13. Section 12E.11, subsection 7, paragraph c, Code 2001, is amended to read as follows:

c. The bonds shall be subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest which may be fixed or variable during any period the bonds are outstanding, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this chapter and as determined by resolution of the board authorizing their issuance.

<sup>2</sup> See chapter 185, §48 herein

Sec. 14. Section 12E.11, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 11. The state reserves the right at any time to alter, amend, repeal, or otherwise change the structure, organization, programs, or activities of the authority, including the power to terminate the authority, except that a law shall not be enacted that impairs any obligation made pursuant to a sales agreement or any contract entered into by the authority with or on behalf of the holders of the bonds to the extent that any such law would contravene Article I, section 21, of the Constitution of the State of Iowa or Article I, section 10, of the Constitution of the United States.

Sec. 15. Section 12E.12, subsection 1, Code 2001, is amended to read as follows:

1. a. A tobacco settlement trust fund is established, separate and apart from all other public moneys or funds of the state, under the control of the authority. The fund shall consist of moneys paid to the authority and not pledged to the payment of bonds or otherwise obligated. Such moneys shall include but are not limited to payments received from the master settlement agreement which are not pledged to the payment of bonds or which are subsequently released from a pledge to the payment of any bonds; payments which, in accordance with any sales agreement with the state, are to be paid to the state and not pledged to the bonds, including that portion of the proceeds of any bonds designated for purchase of all or a portion of the state's share, which are designated for deposit in the fund, together with all interest, dividends, and rents on the bonds; and all securities or investment income and other assets acquired by and through the use of the moneys belonging to the fund and any other moneys deposited in the fund. Moneys in the fund are to be used solely and only for the payment of all amounts due and to become due to the state, and shall not be used for any other purpose. Such moneys shall not be available for the payment of any claim against the authority or any debt or obligation of the authority.

b. The fund shall consist of the following accounts:

(1) The tax-exempt bond proceeds restricted capital funds account. The net proceeds of tax-exempt bonds issued to provide funds for capital projects, certain debt service, and attorney fees related to the master settlement agreement which the state treasurer is authorized and directed to deposit on behalf of the state, shall be deposited in the account and shall be used to fund capital projects, certain debt service, and the payment of attorney fees related to the master settlement agreement. With respect to capital projects, it is the intent of the general assembly to fund capital projects that qualify as vertical infrastructure projects as defined in section 8.57, subsection 5, paragraph "c", to the extent practicable in any fiscal year and without limiting other qualifying capital expenditures considered and approved by a constitutional majority of each house of the general assembly and the governor.

(2) The endowment for Iowa's health account. The net proceeds of any taxable bonds or tax-exempt bonds issued to provide funds for the purposes specified in section 12.65 which the authority is directed to deposit in the account, any portion of the state's share which is not sold to the authority, and any other moneys appropriated by the state for deposit in the account shall be deposited in the account and shall be used for the purposes specified in section 12.65.

(a) There is transferred from the endowment for Iowa's health account of the tobacco settlement trust fund to the healthy Iowans tobacco trust for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the amount of fifty-five million dollars, to be used for the purposes specified in section 12.65.

(b) For each fiscal year beginning July 1, 2002, and annually thereafter, there is transferred from the endowment for Iowa's health account of the tobacco settlement trust fund to the healthy Iowans tobacco trust fifty-five million dollars plus an inflationary factor of one and one-half percent of the amount transferred in the previous fiscal year. Any transfer in an amount not in accordance with this subparagraph shall not be made unless authorized by a three-fifths majority of each house and approved by the governor.

Sec. 16. Section 12E.12, subsection 3, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. If consistent with the investment policy established by the board, the authority may invest moneys of or held by the authority in structured notes and investment agreements, the repayment of the principal amount of which is protected or guaranteed.

Sec. 17. Section 12E.13, subsection 5, Code 2001, is amended to read as follows:

5. All moneys of the authority or moneys held by the authority shall be invested and held in the name of the authority, whether they are held for the benefit, security, or future payment to holders of bonds or to the state. All such moneys and investments shall be considered moneys and investments of the authority with the exception of moneys in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund which are moneys of the state.

Sec. 18. Section 12E.17, Code 2001, is amended to read as follows:

12E.17 DISSOLUTION OF THE AUTHORITY.

The authority shall dissolve no later than two years from the date of final payment of all outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with this chapter. Upon dissolution of the authority, all assets of the authority shall be returned to the state and shall be deposited in the healthy Iowans tobacco settlement endowment fund trust, unless otherwise directed by the general assembly, and the authority shall execute any necessary assignments or instruments, including any assignment of any right, title, or ownership to the state for receipt of payments under the master settlement agreement.

Sec. 19. 2000 Iowa Acts, chapter 1208, section 24, as amended by 2001 Iowa Acts, Senate File 258,<sup>3</sup> section 1, is repealed.

Sec. 20. EFFECTIVE DATE — DEPOSIT OF FUNDS. Until the effective date of the sale as provided in section 12E.9, the state's share shall be deposited in the healthy Iowans tobacco trust created in section 12.65. Upon the effective date of the sale, the state's share shall be transferred or deposited in accordance with any sales agreement and chapter 12E.

Sec. 21. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 29, 2001

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<sup>3</sup> Chapter 5 herein

**CHAPTER 165****CRIMINAL SENTENCING — MISCELLANEOUS CHANGES***S.F. 543*

**AN ACT** making changes to criminal sentences by permitting an aggravated misdemeanor charge for certain burglary in the third degree criminal offenses, by creating a sentence of a determinate term of confinement and an additional indeterminate term of years for certain class "D" felonies, by extending the length of time for reconsideration of certain felony sentences, and providing penalties.

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

Section 1. Section 713.6A, Code 2001, is amended to read as follows:

713.6A BURGLARY IN THE THIRD DEGREE.

1. All burglary which is not burglary in the first degree or burglary in the second degree is burglary in the third degree. Burglary in the third degree is a class "D" felony, except as provided in subsection 2.

2. Burglary in the third degree involving a burglary of an unoccupied motor vehicle or motor truck as defined in section 321.1, or a vessel defined in section 462A.2, is an aggravated misdemeanor for a first offense. A second or subsequent conviction under this section is punishable under subsection 1.

Sec. 2. Section 713.6B, Code 2001, is amended to read as follows:

713.6B ATTEMPTED BURGLARY IN THE THIRD DEGREE.

1. All attempted burglary which is not attempted burglary in the first degree or attempted burglary in the second degree is attempted burglary in the third degree. Attempted burglary in the third degree is an aggravated misdemeanor, except as provided in subsection 2.

2. Attempted burglary in the third degree involving an attempted burglary of an unoccupied motor vehicle or motor truck as defined in section 321.1, or a vessel defined in section 462A.2, is a serious misdemeanor for a first offense. A second or subsequent conviction under this section is punishable under subsection 1.

Sec. 3. Section 901.5, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 13. In addition to any sentence or other penalty imposed against the defendant, the court shall sentence the defendant to an additional indeterminate term of years if required under section 902.3A, subsection 2.

Sec. 4. NEW SECTION. 902.3A DETERMINATE SENTENCING AND ADDITIONAL TERM OF YEARS FOR CLASS "D" FELONS.

1. Notwithstanding section 902.3, when a conviction for a class "D" felony is entered against a person, the court, at its discretion, in imposing a sentence of confinement pursuant to section 901.5, may commit the person into the custody of the director of the Iowa department of corrections for a determinate term of less than the maximum length of the sentence prescribed by section 902.9, subsection 5, if mitigating circumstances exist and those circumstances are stated specifically on the record.

a. The determinate term of confinement shall not be for less than one year and if a mandatory minimum sentence is required by law, the determinate term of confinement imposed under this section shall not be less than the mandatory minimum term of confinement prescribed by law.

b. A person sentenced to a determinate term of confinement under this section shall not be eligible for parole until the person has served one-half of the determinate term of confinement under the sentence.

c. Earned time shall be calculated as provided in chapter 903A. However, earned time accrued and not forfeited shall not apply to cause the person to become eligible for parole until the person has served one-half of the determinate term of confinement.

d. A person on parole or work release under a determinate term of confinement imposed under this section shall be subject to the terms and conditions of parole or work release as set out in chapter 906. Violations of parole or work release shall be subject to the procedures set out in chapters 905 and 908 or rules adopted under those chapters.

e. This section does not apply to an offense classified as a forcible felony, a felony under section 321J.2, felonies in chapters 707, 708, and 709, a person sentenced as a habitual offender, felonies listed in section 901A.1, felonies listed in section 902.12, or a felony committed by a person on parole or work release, or while in the custody of the director of the department of corrections.

2. When the person is sentenced and committed into the custody of the director of the department of corrections pursuant to subsection 1, the person shall also be sentenced to an additional indeterminate term of years not to exceed two years. The sentence of an additional term shall be consecutive to the determinate term of confinement.

a. The sentence of an additional indeterminate term of years shall commence immediately upon the expiration of the determinate term of confinement and the person shall be assigned to the judicial district department of correctional services by the department of corrections. The district department shall place a person assigned to it under this paragraph in a level of sanction and supervision which is appropriate to the person pursuant to the district's intermediate criminal sanctions program operated under chapter 901B.

b. The district department may transfer a person along the continuum of the intermediate criminal sanctions program operated pursuant to chapter 901B as necessary and appropriate during the period the person is assigned to the district department. If the person violates the terms and conditions of the placement, the district may transfer the person to a more restrictive placement as provided in the program.

c. A person serving an additional indeterminate term of years may be discharged from that sentence in the same manner as a person serving probation may be discharged under section 907.9. Discharge from an additional indeterminate term of years terminates the person's sentence of an additional indeterminate term of years.

d. A person serving an additional indeterminate term of years shall receive credit for any time served after discharge from the preceding determinate term of confinement against the person's sentence of an additional indeterminate term of years.

3. Notwithstanding subsection 2, if a person is paroled at least six months prior to the expiration of the person's determinate term of confinement, the person shall not serve an additional indeterminate term of years.

4. Section 907.3 governs the inapplicability of deferred judgments and deferred or suspended sentences to sentences imposed under this section.

Sec. 5. Section 902.4, Code 2001, is amended to read as follows:

902.4 RECONSIDERATION OF FELON'S SENTENCE.

For a period of ~~ninety days~~ one year from the date when a person convicted of a felony, other than a class "A" felony or a felony for which a minimum sentence of confinement is imposed, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the director of the Iowa department of corrections, may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. Copies of the order to return the person to the court shall be provided to the attorney for the state, the defendant's attorney, and the defendant. Upon a request of the attorney for the state, the defendant's attorney, or the defendant if the defendant has no attorney, the court may, but is not required to, conduct a hearing on the issue of reconsideration of sentence. The court shall not disclose its decision to reconsider or not to reconsider the sentence of confinement until the date reconsideration is ordered or the date the ~~ninety-day~~ one-year period expires, whichever occurs first. The district court retains jurisdiction for the limited purposes of conducting such review and entering an appropriate order notwithstanding the timely filing of a notice of appeal. The court's final order in the proceeding shall be delivered to the defendant person-



ally or by certified mail. The court's decision to take the action or not to take the action is not subject to appeal. However, for the purposes of appeal, a judgment of conviction of a felony is a final judgment when pronounced.

Sec. 6. Section 903.4, Code 2001, is amended to read as follows:  
903.4 PROVIDING PLACE OF CONFINEMENT.

All persons sentenced to confinement for a period of one year or less shall be confined in a place to be furnished by the county where the conviction was had unless the person is presently committed to the custody of the director of the Iowa department of corrections, in which case the provisions of section 901.8 apply, or unless the person is serving a determinate term of confinement of one year pursuant to section 902.3A. All persons sentenced to confinement for a period of more than one year shall be committed to the custody of the director of the Iowa department of corrections to be confined in a place to be designated by the director and the cost of the confinement shall be borne by the state. The director may contract with local governmental units for the use of detention or correctional facilities maintained by the units for the confinement of such persons.

Sec. 7. Section 907.3, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. The offense is for a determinate term of confinement or an additional indeterminate term of years as provided in section 902.3A.

Sec. 8. Section 907.3, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The offense is for a determinate term of confinement or an additional indeterminate term of years as provided in section 902.3A.

Sec. 9. Section 907.3, subsection 3, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The sentence for a determinate term of confinement or an additional indeterminate term of years as provided in section 902.3A.

Sec. 10. DETERMINATE SENTENCING AND RECONSIDERATION OF A FELON'S SENTENCE — INFORMATION. The department of corrections, in cooperation with the division of criminal and juvenile justice planning of the department of human rights, the state public defender, and the office of the prosecuting attorneys training coordinator in the department of justice, shall compile and provide information about determinate sentencing under section 902.3A and about reconsideration of a felon's sentence under section 902.4 for distribution through the Iowa state bar association for the purpose of educating attorneys and judges about those sections.

Approved May 30, 2001

**CHAPTER 166****CHILD PROTECTION CENTER GRANT PROGRAM***H.F. 598*

**AN ACT** establishing a child protection center grant program.

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

Section 1. NEW SECTION. 135.113 CHILD PROTECTION CENTER GRANT PROGRAM.

1. A child protection center grant program is established in the Iowa department of public health in accordance with this section. The director of public health shall establish requirements for the grant program and shall award grants. A grant may be used for establishment of a new center or for support of an existing center.

2. The eligibility requirements for a child protection center grant shall include but are not limited to all of the following:

a. A grantee must meet or be in the process of meeting the standards established by the national children's alliance for children's advocacy centers.

b. A grantee must have in place an interagency memorandum of understanding regarding participation in the operation of the center and for coordinating the activities of the government entities that respond to cases of child abuse in order to facilitate the appropriate disposition of child abuse cases through the juvenile and criminal justice systems. Agencies participating under the memorandum must include the following that are operating in the area served by the grantee:

(1) Department of human services county offices assigned to child protection.

(2) County and municipal law enforcement agencies.

(3) Office of the county attorney.

(4) Other government agencies involved with child abuse assessments or service provision.

c. The interagency memorandum must provide for a cooperative team approach to responding to child abuse, reducing the number of interviews required of a victim of child abuse, and establishing an approach that emphasizes the best interest of the child and that provides investigation, assessment, and rehabilitative services.

d. As necessary to address serious cases of child abuse such as those involving sexual abuse, serious physical abuse, and substance abuse, a grantee must be able to involve or consult with persons from various professional disciplines who have training and expertise in addressing special types of child abuse. These persons may include but are not limited to physicians and other health care professionals, mental health professionals, social workers, child protection workers, attorneys, juvenile court officers, public health workers, child development experts, child educators, and child advocates.

3. The director shall create a committee to consider grant proposals and to make grant recommendations to the director. The committee membership may include but is not limited to representatives of the following: departments of human services, justice, and public health, Iowa medical society, Iowa hospital association, Iowa nurses association, and an association representing social workers.

4. Implementation of the grant program is subject to the availability of funding for the grant program.

Approved May 31, 2001

**CHAPTER 167****SCHOOL-TO-CAREER PROGRAM — MISCELLANEOUS CHANGES***H.F. 695*

**AN ACT** relating to the school-to-career program.

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

Section 1. Section 15.362, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 1A. "Employer" means an employer or a consortium of two or more employers.

Sec. 2. Section 15.364, subsection 6, Code 2001, is amended to read as follows:

6. That in addition to the base wage paid to the participant, the employer shall pay an additional sum to be held in trust to be applied toward the participant's postsecondary education required for completion of the certified program. The additional amount must be not less than an amount determined by the department of economic development to be sufficient to provide payment of tuition expenses toward completion of not more than two academic years of the required postsecondary education component of the certified program at an Iowa community college or an Iowa public or private college or university. This amount shall be held in trust for the benefit of the participant pursuant to rules adopted by the department of economic development. Payment into an ERISA-approved fund for the benefit of the participant shall satisfy this requirement. The specific fund shall be specified in the agreement. An employer that is a consortium of two or more employers shall not be subject to the requirements of this subsection if tuition is included as part of a stipend paid by the employer to a participant and can be identified as such.

Sec. 3. Section 15.364, subsections 7 and 8, Code 2001, are amended by striking the subsections.

Sec. 4. Section 15.365, subsection 1, Code 2001, is amended to read as follows:

1. An employer who employs a participant in a certified school-to-career program may claim a refund of twenty percent of the employer's payroll expenditures for each participant in the certified program or twenty percent of the employer's expenditures for participant experience expenses provided for in the certified program agreement which may include instructor expenses, instructional materials, up to one hundred fifty thousand dollars of training facility costs per program, and project coordination. The refund is limited to the first four hundred hours of payroll or participant experience expenditures per participant for each calendar year the participant is in the certified program, not to exceed three years per participant.

Approved May 31, 2001

**CHAPTER 168****LAW ENFORCEMENT INITIATIVE SURCHARGE***S.F. 486*

**AN ACT** relating to the assessment of a law enforcement initiative surcharge on certain criminal offenses.

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

Section 1. Section 602.8102, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 135B. Assess the law enforcement initiative surcharge as provided by section 911.3.

Sec. 2. Section 602.8107, subsection 4, unnumbered paragraph 2, Code 2001, is amended to read as follows:

This subsection does not apply to amounts collected for victim restitution, the victim compensation fund, criminal penalty surcharge, law enforcement initiative surcharge, amounts collected as a result of procedures initiated under subsection 5 or under section 421.17, subsection 25, or sheriff's room and board fees.

Sec. 3. Section 602.8108, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. When a court assesses the law enforcement initiative surcharge under section 911.3, the clerk of court shall remit to the treasurer of the state, no later than the fifteenth day of each month, all the moneys collected during the preceding month, for deposit in the general fund of the state.

Sec. 4. Section 902.9, subsection 5, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The criminal penalty surcharge required by ~~section~~ sections 911.2 and 911.3 shall be added to a fine imposed on a class "C" or class "D" felon, as provided by that section, and is not a part of or subject to the maximums set in this section.

Sec. 5. Section 903.1, subsection 4, Code 2001, is amended to read as follows:

4. The criminal penalty surcharge required by ~~section~~ sections 911.2 and 911.3 shall be added to a fine imposed on a misdemeanor, and is not a part of or subject to the maximums set in this section.

Sec. 6. Section 909.8, Code 2001, is amended to read as follows:

909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO ~~CRIMINAL PENALTY SURCHARGE~~.

The provisions of this chapter governing the payment and collection of a fine, except section 909.3A, also apply to the payment and collection of ~~a criminal penalty surcharge~~ surcharges imposed pursuant to chapter 911. However, section 909.10 shall not apply to surcharges assessed under section 911.3.

Sec. 7. NEW SECTION. 911.3 LAW ENFORCEMENT INITIATIVE SURCHARGE.

1. In addition to the surcharge assessed in section 911.2, a law enforcement initiative surcharge of one hundred and twenty-five dollars shall be assessed by the clerk of the district court if an adjudication of guilt or a deferred judgment has been entered for a criminal violation under any of the following:

- a. Chapter 124, 155A, 453B, 713, 714, 715A, or 716.
- b. Section 719.8, 725.1, 725.2, or 725.3.

2. The surcharge shall be deposited in the general fund of the state.

3. The surcharge is subject to the provisions of chapter 909 governing the payment and collection of fines, as provided in section 909.8.

Approved June 1, 2001

## CHAPTER 169

### ADMINISTRATION AND OVERSIGHT OF STATE GOVERNMENT

*H.F. 687*

**AN ACT** relating to government accountability, by providing for strategic planning, performance measurement and reporting, performance audits, performance contracting, return on investment, and oversight, and providing for its implementation.

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

Section 1. Section 8.22, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The budget shall consist of ~~three~~ four parts, the nature and contents of which shall be as follows:

Sec. 2. Section 8.22, Code 2001, is amended by adding the following new part:

#### NEW PART. PART IV

**STRATEGIC PLAN.** Part IV shall include an explanation that correlates the budget with the enterprise strategic plan adopted pursuant to section 8E.204. The budget shall provide an explanation of appropriations recommended for the administration and maintenance of an agency as defined in section 8E.103 with the general evaluation of the agency in meeting enterprise strategic goals, including identifying goals that require legislation.

Sec. 3. Section 8.23, unnumbered paragraph 1, Code 2001, is amended to read as follows:

On or before October 1, prior to each legislative session, all departments and establishments of the government shall transmit to the director, on blanks to be furnished by the director, estimates of their expenditure requirements, including every proposed expenditure, for the ensuing fiscal year, classified so as to distinguish between expenditures estimated for administration, operation, and maintenance, and the cost of each project involving the purchase of land or the making of a public improvement or capital outlay of a permanent character, together with supporting data and explanations as called for by the director.

1. The budget estimates shall include for those agencies which pay for energy directly a line item for energy expenses itemized by type of energy and location.

2. The estimates of expenditure requirements shall be based upon seventy-five percent of the funding provided for the current fiscal year accounted for by program reduced by the historical employee vacancy factor in form specified by the director and the remainder of the estimate of expenditure requirements prioritized by program. The estimates shall be accompanied with performance measures for evaluating the effectiveness of the program.

3. The budget estimates for an agency as defined in section 8E.103 shall be based on achieving goals contained in the enterprise strategic plan and the agency's strategic plan as provided for in chapter 8E. The estimates shall be accompanied by a description of the measurable and other results to be achieved by the agency. Performance measures shall be based on the goals developed pursuant to sections 8E.205, 8E.206, and 8E.208. The esti-

mates shall be accompanied by an explanation of the manner in which appropriations requested for the administration and maintenance of the agency meet goals contained in the enterprise strategic plan and the agency's strategic plan, including identifying goals that require legislation.

4. If a department or establishment fails to submit estimates within the time specified, the legislative fiscal bureau shall use the amounts of the appropriations to the department or establishment for the fiscal year in process at the time the estimates are required to be submitted as the amounts for the department's or establishment's request in the documents submitted to the general assembly for the ensuing fiscal year and the governor shall cause estimates to be prepared for that department or establishment as in the governor's opinion are reasonable and proper.

5. The director shall furnish standard budget request forms to each department or agency of state government.

Sec. 4. Section 8.35A, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 5. The department shall transmit the enterprise strategic plan and related information and an agency shall transmit its agency strategic plan, performance report, and related information as required by chapter 8E to the legislative fiscal bureau.

Sec. 5. NEW SECTION. 8.47 SERVICE CONTRACTS.

1. The department of general services, in cooperation with the office of attorney general, the department of management, the department of personnel, and the department of revenue and finance, shall adopt uniform terms and conditions for service contracts executed by a department or establishment benefiting from service contracts. The terms and conditions shall include but are not limited to all of the following:

a. The amount or basis for paying consideration to the party based on the party's performance under the service contract.

b. Methods to effectively oversee the party's compliance with the service contract by the department or establishment receiving the services during performance, including the delivery of invoices itemizing work performed under the service contract prior to payment.

c. Methods to effectively review performance of a service contract, including but not limited to performance measurements developed pursuant to chapter 8E.

2. Departments or establishments, with the approval of the department of management acting in cooperation with the office of attorney general, the department of general services, the department of personnel, and the department of revenue and finance, may adopt special terms and conditions for use by the departments or establishments in their service contracts.

3. The state board of regents shall establish terms and conditions for service contracts executed by institutions governed by the state board of regents.

Sec. 6. Section 8.52, subsections 1 and 5, Code 2001, are amended to read as follows:

1. Provide coordination of state ~~policy~~ planning, performance measurement, and management of interagency programs of the state, and recommend policies to the governor and the general assembly.

5. Inquire into methods of planning, performance measurement, and program development, and the conduct of affairs of state government; prescribe adequate systems of records for planning, performance measurement, and programming; establish standards for effective planning, performance measurement, and programming in consultation with affected state agencies; and exercise all other powers necessary in discharging the powers and duties of this chapter.

Sec. 7. Section 8.52, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 6. Administer the accountable government act as provided in chapter 8E.

SUBCHAPTER 1  
GENERAL

Sec. 8. NEW SECTION. 8E.101 TITLE.

1. This chapter shall be known and may be cited as the "Accountable Government Act".

Sec. 9. NEW SECTION. 8E.102 PURPOSES.

This chapter is intended to create mechanisms to most effectively and efficiently respond to the needs of Iowans and continuously improve state government performance, including by doing all of the following:

1. Allocating human and material resources available to state government to maximize measurable results for Iowans.
2. Improving decision making at all levels of state government.
3. Enhancing state government's relationship with citizens and taxpayers, by providing for the greatest possible accountability of the government to the public.

Sec. 10. NEW SECTION. 8E.103 DEFINITIONS.

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

1. "Agency" means a principal central department enumerated in section 7E.5. For purposes of this chapter, each division within the department of commerce shall be considered an agency, and each bureau within a division of the department of commerce shall be considered a division, as otherwise provided in chapter 7E.
2. "Agency performance plan" means an action plan based on an agency strategic plan which utilizes performance measures, data sources, and performance targets to achieve the agency's goals adopted pursuant to section 8E.208.
3. "Agency strategic plan" means the strategic plan for the agency adopted pursuant to section 8E.206.
4. "Department" means the department of management.
5. "Enterprise strategic plan" means the strategic plan for the executive branch of state government adopted pursuant to section 8E.204.
6. "Performance target" means a desired level of performance, demonstrating specific progress toward the attainment of a goal which is part of a strategic plan as provided in section 8E.208.
7. "Strategic plan" means an enterprise strategic plan or an agency strategic plan.

Sec. 11. NEW SECTION. 8E.104 ADMINISTRATION.

The department shall oversee the administration of this chapter in cooperation with agencies as provided in this chapter. The department shall adopt rules as necessary in order to administer this chapter. However, the state board of regents shall oversee and implement the provisions of this chapter for institutions governed under chapter 262.

Sec. 12. NEW SECTION. 8E.105 CHAPTER EVALUATION.

The department shall conduct an evaluation of the effectiveness of this chapter in carrying out the purposes of this chapter as provided in section 8E.102. The department shall submit a report of its findings and recommendations to the governor and general assembly not later than January 10, 2006.

SUBCHAPTER 2  
STRATEGIC PLANNING AND PERFORMANCE MEASUREMENT

Sec. 13. NEW SECTION. 8E.201 AGENCY DUTIES AND POWERS.

Each agency shall administer the application of this chapter to the agency in cooperation with the department. Each agency shall measure and monitor progress toward achieving goals which relate to programs administered by the agency pursuant to the enterprise strategic plan, the agency strategic plan, and the agency performance plan.

Sec. 14. NEW SECTION. 8E.202 REPORTS AND RECORDS — ACCESS AND PURPOSE.

1. The department and each agency shall provide for the widest possible dissemination of information between agencies and the public, relating to the enterprise strategic plan and agency strategic plans including but not limited to internet access. This section does not require the department or an agency to release information which is classified as a confidential record under this Code including but not limited to section 22.7.

a. In administering this subsection, the department shall provide for the dissemination of all of the following:

(1) The enterprise strategic plan, performance measures, performance targets based on performance data, performance data, and data sources used to evaluate agency performance, and explanations of the plan's provisions.

(2) Methods for the public and state employees to provide input including written and oral comments for the enterprise strategic plan, including a schedule of any public hearings relating to the plan or revisions.

b. In administering this subsection, each agency shall provide for the dissemination of all of the following:

(1) The agency strategic plan, performance measures, performance targets based on performance data, performance data, and data sources used by the agency to evaluate its performance, and explanations of the plan's provisions.

(2) Methods for the public and agency employees to provide input including written and oral comments for the agency strategic plan, including a schedule of any public hearings relating to the plan or revisions.

2. The department may review any records of an agency that relate to an agency strategic plan, an agency performance plan, or a performance audit conducted pursuant to section 8E.209.

3. A record which is confidential under this Code including but not limited to section 22.7 shall not be released to the public under this section.

Sec. 15. NEW SECTION. 8E.203 STRATEGIC PLAN — PURPOSES.

The purposes of strategic plans are to promote long-term and broad thinking, focus on results for Iowans, and guide the allocation of human and material resources and day-to-day activities.

Sec. 16. NEW SECTION. 8E.204 ADOPTION AND REVISION OF AN ENTERPRISE STRATEGIC PLAN AND AGENCY STRATEGIC PLANS.

1. The department, in consultation with agencies, shall adopt an enterprise strategic plan. Each agency shall adopt an agency strategic plan aligned with the enterprise strategic plan.

2. The department or an agency shall adopt and revise a strategic plan which includes input from customers and stakeholders following an opportunity for broad public participation in strategic planning. The department or an agency developing or revising a strategic plan shall include input from state employees, including written and oral comments. Upon adoption of the enterprise strategic plan by the department, the plan shall be disseminated to each agency and made available to all state employees. Upon adoption of the agency's strategic plan, the agency shall provide the department with a copy of the agency strategic plan and make the strategic plan available to all agency employees. The enterprise strategic plan and all agency strategic plans shall be available to the public.

3. The department and agencies shall annually review the enterprise strategic plan. An agency shall conduct an annual review of its agency strategic plan. Revisions in the strategic plan may be prompted by a reexamination of priorities or the need to redirect state resources based on new circumstances, including events or trends.



Sec. 17. NEW SECTION. 8E.205 ENTERPRISE STRATEGIC PLAN.

The enterprise strategic plan shall identify major policy goals of the state. The enterprise strategic plan shall also describe multiagency strategies to achieve major policy goals, and establish the means to gauge progress toward achieving the major policy goals.

Sec. 18. NEW SECTION. 8E.206 AGENCY STRATEGIC PLANS.

1. An agency shall adopt an agency strategic plan which shall follow a format and include elements as determined by the department in consultation with agencies.
2. An agency shall align its agency strategic plan with the enterprise strategic plan and show the alignment.

Sec. 19. NEW SECTION. 8E.207 AGENCY PERFORMANCE PLANS.

Each agency shall develop an annual performance plan to achieve the goals provided in the agency strategic plan, including the development of performance targets using its performance measures. The agency shall use its performance plan to guide its day-to-day operations and track its progress in achieving the goals specified in its agency strategic plan.

1. An agency shall align its agency performance plan with the agency strategic plan and show the alignment in the agency performance plan.
2. An agency shall align individual performance instruments with its agency performance plan.

Sec. 20. NEW SECTION. 8E.208 PERFORMANCE MEASURES, PERFORMANCE TARGETS, AND PERFORMANCE DATA.

The department, in consultation with agencies, shall establish guidelines that will be used to create performance measures, performance targets, and data sources for each agency and each agency's functions.

Sec. 21. NEW SECTION. 8E.209 PERIODIC PERFORMANCE AUDITS AND PERFORMANCE DATA VALIDATION.

1. The department, in consultation with the legislative fiscal bureau, the auditor of state, and agencies, shall establish and implement a system of periodic performance audits. The purpose of a performance audit is to assess the performance of an agency in carrying out its programs in light of the agency strategic plan, including the effectiveness of its programs, based on performance measures, performance targets, and performance data. The department may make recommendations to improve agency performance which may include modifying, streamlining, consolidating, expanding, redesigning, or eliminating programs.
2. The department, in cooperation with the legislative fiscal bureau and the auditor of state, shall provide for the analysis of the integrity and validity of performance data.

Sec. 22. NEW SECTION. 8E.210 REPORTING REQUIREMENTS.

1. Each agency shall prepare an annual performance report stating the agency's progress in meeting performance targets and achieving its goals consistent with the enterprise strategic plan, its agency strategic plan, and its performance plan. An annual performance report shall include a description of how the agency has reallocated human and material resources in the previous fiscal year. The department in conjunction with agencies, shall develop guidelines for annual performance reports, including but not limited to a reporting schedule. An agency may incorporate its annual performance report into another report that the agency is required to submit to the department.
2. The annual performance reporting required under this section shall be used to improve performance, improve strategic planning and policy decision making, better allocate human and material resources, recognize superior performance, and inform Iowans about their return from investment in state government.

SUBCHAPTER 3  
INVESTMENT DECISIONS

Sec. 23. NEW SECTION. 8E.301 SCOPE.

The department, in cooperation with agencies, shall establish methodologies for use in making major investment decisions, including methodologies based on return on investment and cost-benefit analysis. The department and agencies may also utilize these methodologies to review current investment decisions. The department shall establish procedures for implementing the methodologies, requiring independent verification and validation of investment results, and providing reports to the governor and the legislative fiscal bureau regarding the implementation.

Sec. 24. IMPLEMENTATION. The department shall implement chapter 8E as enacted in this Act as soon as practical according to a multiyear schedule adopted by the department.

Approved June 1, 2001

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**CHAPTER 170**  
REGULATION OF FOOT AND MOUTH DISEASE  
*H.F. 745*

**AN ACT** regulating foot and mouth disease and providing an effective date.

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

Section 1. Section 163.2, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. As used in this chapter, "foot and mouth disease" means a virus of the family picornaviridae, genus apthovirus, including any immunologically distinct serotypes.

FOOT AND MOUTH DISEASE

Sec. 2. NEW SECTION. 163.51 SECURITY MEASURES.

1. The department may establish security measures in order to control outbreaks of foot and mouth disease in this state, including by providing for the prevention, suppression, and eradication of foot and mouth disease. In administering and enforcing this section, the department may adopt rules and shall issue orders in a manner consistent with sound veterinary principles and federal law for the control of outbreaks of the disease. The department may implement the security measures by doing any of the following:

a. If the department determines that an animal is infected with or exposed to foot and mouth disease, or the department suspects that an animal is so infected or exposed, the department may provide for all of the following:

(1) The quarantine, condemnation, or destruction of the animal. The department may establish quarantined areas and regulate activities in the quarantined areas, including movement or relocation of animals or other property within, into, or from the quarantined areas. This section does not authorize the department to provide for the destruction of personal property other than an animal.

(2) The inspection or examination of the animal's premises in order to perform an exami-

nation or test to determine whether the animal is or was infected or exposed or whether the premises is contaminated. The department may take a blood or tissue sample of any animal on the premises.

(3) The compelling of a person who is the owner or custodian of the animal to provide information regarding the movement or relocation of the animal or the vaccination status of the animal or the herd where the animal originates. The department may issue a subpoena for relevant testimony or records as defined in section 516E.1. In the case of a failure or refusal of the person to provide testimony or records, the district court upon application of the department or the attorney general acting upon behalf of the department, may order the person to show cause why the person should not be held in contempt. The court may order the person to provide testimony or produce the record or be punished for contempt as if the person refused to testify before the court or disobeyed a subpoena issued by the court.

b. The department may provide for the cleaning and disinfection of real or personal property, if the department determines that the property is contaminated with foot and mouth disease or suspects that the property is contaminated with foot and mouth disease.

2. a. If the department determines that there is a suspected outbreak of foot and mouth disease in this state, the department shall immediately notify all of the following:

(1) The governor or a designee of the governor. The notification shall contain information regarding actions being implemented or recommended in order to determine if the outbreak is genuine and measures to control a genuine outbreak.

(2) The administrative unit of the United States department of agriculture responsible for controlling outbreaks in this state.

b. If the department confirms an outbreak of foot and mouth disease in this state, the department shall cooperate with the governor; federal agencies, including the United States department of agriculture; and state agencies, including the emergency management division of the department of public defense, in order to provide the public with timely and accurate information regarding the outbreak. The department shall cooperate with organizations representing agricultural producers in order to provide all necessary information to agricultural producers required to control the outbreak.

3. The department shall cooperate with federal agencies, including the United States department of agriculture, other state agencies and law enforcement entities, and agencies of other states. Other state agencies and law enforcement entities shall assist the department.

4. a. To the extent that an animal's owner would not otherwise be compensated, section 163.15 shall apply to the owner's loss of any animal destroyed under this section.

b. Upon the request of the executive council, the department shall develop and submit a plan to the executive council that compensates an owner of property, other than an animal, that is inadvertently destroyed by the department as a result of the department's regulation of activities in a quarantined area. The plan shall not be implemented without the approval of at least three members of the executive council. The payment of the compensation under the plan shall be made in the same manner as provided in section 163.15. The owner may submit a claim for compensation prior to the plan's implementation. The executive council may apply the plan retroactively, but not earlier than the effective date of this Act.

5. Nothing in this section limits the department's authority to regulate animals or premises under other provisions of state law, including this chapter.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 1, 2001

**CHAPTER 171**

**APPROPRIATIONS — SUPPLEMENTAL FUNDING  
FOR LOW-INCOME HOME ENERGY ASSISTANCE**

S.F. 65

**AN ACT** providing supplemental funding for the low-income home energy assistance program for the fiscal year beginning July 1, 2000, and providing an effective date.

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

Section 1. **INNOVATIONS FUND.** There is appropriated from the innovations fund created in section 8.63 to the department of human rights for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount from moneys in the fund that are otherwise unencumbered or unobligated on the effective date of this Act, or so much thereof as is necessary, to be used for the purpose designated:

For supplementation of the low-income home energy assistance appropriation made in 2000 Iowa Acts, chapter 1220, section 11, to be used to help eligible households meet home energy costs in accordance with 2000 Iowa Acts, chapter 1220, section 11, subsection 4, and none of the following amount shall be used for administrative expenses:

..... \$ 2,343,051

\*Sec. 2. **HOUSING PROGRAM FUND.** There is appropriated from the housing program fund created in section 16.40 to the department of human rights for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount from moneys in the fund that are otherwise unencumbered or unobligated on the effective date of this Act, or so much thereof as is necessary, to be used for the purpose designated:

For supplementation of the low-income home energy assistance appropriation made in 2000 Iowa Acts, chapter 1220, section 11, to be used to help eligible households meet home energy costs in accordance with 2000 Iowa Acts, chapter 1220, section 11, subsection 4, and none of the following amount shall be used for administrative expenses:

..... \$ 2,446,260\*

Sec. 3. **GROUNDWATER PROTECTION FUND.** There is appropriated from the groundwater protection fund created in section 455E.11 to the department of human rights for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount from moneys in the fund that are otherwise unencumbered or unobligated on the effective date of this Act, or so much thereof as is necessary, to be used for the purpose designated:

For supplementation of the low-income home energy assistance appropriation made in 2000 Iowa Acts, chapter 1220, section 11, to be used to help eligible households meet home energy costs in accordance with 2000 Iowa Acts, chapter 1220, section 11, subsection 4, and none of the following amount shall be used for administrative expenses:

..... \$ 6,553,024

Sec. 4. 2000 Iowa Acts, chapter 1220, section 11, subsection 2, is amended by striking the subsection and inserting in lieu thereof the following:

2. Not more than \$3,305,016 of the amounts of federal and state moneys appropriated for purposes of the low-income home energy assistance program for the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, and for the state fiscal year beginning July 1, 2000, and ending June 30, 2001, that are actually received, shall be used for residential weatherization or other related home repairs for low-income households. Of this allocation amount, not more than 10 percent may be used for administrative expenses.

Sec. 5. 2000 Iowa Acts, chapter 1220, section 11, subsection 3, is amended to read as follows:

3. After subtracting the allocation in subsection 2, ~~\$1,696,854, or 10 percent of the re-~~

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

~~remainder of the appropriation in this section actually received, whichever is less, \$2,663,921 is allocated for administrative expenses of the low-income home energy assistance program. Not more than \$290,000 of the amount allocated in this subsection shall be used for administrative expenses of the division. Funding for administrative expenses of any type from the amounts appropriated for the program in this Act and from state funding sources for the state fiscal year beginning July 1, 2000, shall be limited to the amounts authorized in this subsection.~~ The costs of auditing the use and administration of the portion of the appropriation in this section that is retained by the state shall be paid from the amount allocated in this subsection to the division. The auditor of state shall bill the division for the audit costs.

Sec. 6. 2000 Iowa Acts, chapter 1220, section 11, subsection 6, is amended to read as follows:

6. Expenditures for assessment and resolution of energy problems shall be limited to ~~5 percent of the amount appropriated in this section~~ \$715,000 from the amounts appropriated in this Act and any other Act providing funding for purposes of the low-income home energy assistance program for all or a portion of the federal fiscal year beginning October 1, 2000, and ending September 30, 2001, that is actually received.

Sec. 7. 2000 Iowa Acts, chapter 1220, section 17, subsection 2, is amended to read as follows:

2. If actual funds received from the federal government from block grants exceed the amount appropriated in section 11 of this Act for the low-income home energy assistance program, ~~15 100 percent of the excess shall be allocated to the low-income residential weatherization program~~ help eligible households meet home energy costs in accordance with section 11, subsection 4.

Sec. 8. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

*Approved February 6, 2001, with exception noted.*

THOMAS J. VILSACK, Governor

Dear President Kramer:

I hereby transmit Senate File 65, an Act providing supplemental funding for the Low-Income Home Energy Assistance Program (LIHEAP) for the current fiscal year.

As energy prices nationwide began to skyrocket this past winter and the weather conditions continued to become more severe, I called on the federal government to provide adequate funding for the LIHEAP program to assist Iowa's most vulnerable citizens. Following an allocation of over \$16 million in federal Emergency Contingency Awards, the Iowa Division of Community Action Agencies projected the need for an additional \$20 million to maintain the same proportionate level of energy assistance from LIHEAP as the previous year based on an estimated 20 percent increase in eligible households applying for assistance. I responded to this need with a \$20 million solution generated from the extension of the energy efficiency charge from natural gas customers amounting to approximately \$1.94 per customer. Unfortunately, the Republican Legislators rejected this solution, a solution that would have met the needs of low-income Iowans.

Republican Leaders in the Legislature devised a plan that they claimed would provide \$15 million to LIHEAP. However, Senate File 65 approved by the Legislature authorizes only

\$13,006,346 in state funding to meet the \$20 million need. While the attempt is less than adequate, I am approving relief totaling \$10.5 million for Iowans who now, more than ever, need relief from their high energy bills.

The following sections of Senate File 65 are, therefore, approved on this date with the noted exception, which I hereby disapprove.

I approve Section 1 appropriating \$2,343,051 from the Innovations Fund. This action will leave a balance of \$16,772 in the fund resulting in no new projects being funded until it can be sufficiently replenished. Adequate funding must be ensured for the Innovations Fund in future years to continue to maximize efficiencies in state government and realize significant cost savings.

I am unable to approve Section 2 appropriating \$2,446,260 from the Housing Program Fund. This section impacts the Down Payment/Closing Cost Grant Program, the First Home/First Home Plus Program, and the Housing Assistance Fund through a significant reduction in funding. These programs play an essential role in providing decent, safe, and affordable housing to low-income individuals and families in Iowa. The reduction passed by the Legislature will adversely impact the housing opportunities for the very people targeted to receive heating assistance. To accept this section would be taking from the very Iowans we are attempting to help, and I cannot approve this appropriation.

It is with great reluctance that I approve Section 3 appropriating \$4,127,270 of currently unencumbered and unobligated funding from the Groundwater Protection Fund. This fund was created for the specific purpose of protecting Iowa's valuable water resources, and there is an ongoing need for incentives to meet this purpose. However, the transfer of \$4,127,270 from the Solid Waste Account within the Groundwater Protection Fund will not impact current projects and will be used to meet a more immediate need in Iowa today. While Senate File 65 appropriates up to \$6,553,024 from the Groundwater Protection Fund, only \$4,127,270 is currently unencumbered and unobligated and therefore available for transfer.

I approve Section 4 placing a cap on LIHEAP funding for residential weatherization at \$3,305,016. This action results in an additional \$3,040,451 being made available for direct assistance to low-income Iowans. Because weatherization provides a long-term fix for high heating bills by improving the energy efficiency of low-income Iowans' homes, it is penny wise and pound foolish to reduce funding available for permanent prevention. However, I am directing the Division of Community Action Agencies to take the existing carryover from the weatherization fund and apply it to the next program year beginning April 1, 2001. Together with additional federal funding the Division will receive for the next program year, the weatherization program will have approximately \$11 million available as compared to \$9.5 million in estimated actual expenditures for the current year. Therefore, local weatherization programs will maintain an equivalent level and range of services.

I approve Section 5 providing Community Action Agencies the ability to deliver assistance from LIHEAP to low-income Iowans. By placing a cap of \$2,663,921 on the administration of the program, Section 5 provides an additional \$1,049,314 in LIHEAP payments.

I approve Section 6 establishing a limit of \$715,000 on expenditures for assessment and resolution of energy problems.

I approve Section 7 dedicating all federal emergency funding in excess of the original core funding for LIHEAP to assist eligible households meet their home energy costs. Any future appropriations shall be used as direct assistance to those Iowans most in need.

While unfortunately this is not enough funding to meet the need that currently exists, this Act provides a significant amount of funding that will ease the pressure on some working families, senior citizens, and people with disabilities forced to decide between buying food, buying prescription drugs, or paying their heating bill.

For the above reasons, I hereby respectfully approve Senate File 65 with the exception noted above. While approval of this Act will provide immediate relief, the long-term answer to this problem is the development of a comprehensive energy policy for the state to ensure a reliable supply and stable price.

Sincerely,  
THOMAS J. VILSACK, Governor

**CHAPTER 172**

**SUPPLEMENTAL APPROPRIATIONS AND REDUCTIONS**

*S.F. 267*

**AN ACT** relating to state budgetary matters by providing for reductions and supplementation of appropriations made for the fiscal year beginning July 1, 2000, and transferring, crediting, and appropriating certain moneys, and providing an effective date.

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

**DIVISION I  
SUPPLEMENTAL APPROPRIATIONS**

Section 1. DEPARTMENT OF REVENUE AND FINANCE. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated, in addition to the appropriations made for those purposes in 2000 Iowa Acts, chapter 1231, section 28:

For compliance, including salaries, support, maintenance, and miscellaneous purposes:  
..... \$ 142,236

**DIVISION II  
OTHER FUNDS**

Sec. 2. ENHANCED COURT COLLECTIONS FUND. Notwithstanding section 602.1304, subsection 2, for the fiscal year beginning July 1, 2000, the director of revenue and finance shall not deposit revenues into the enhanced court collections fund. On the effective date of this section, any revenues deposited during the fiscal year into the enhanced court collections fund before the effective date of this section shall be transferred and credited to the general fund of the state.

**DIVISION III  
APPROPRIATIONS REDUCTIONS**

\*Sec. 3. GENERAL REDUCTIONS.

1. Except as otherwise provided in this section, the amounts appropriated from the general fund of the state in enactments made for the fiscal year beginning July 1, 2000, and ending

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

June 30, 2001, and standing limited and unlimited appropriations from the general fund of the state for the fiscal year beginning July 1, 2000, and ending June 30, 2001, are reduced by 1.00 percent. For an appropriation that is reduced to a specific amount in divisions IV through IX of this Act, the appropriation reduction required pursuant to this section shall be applied to the final appropriation amount in divisions IV through IX. However, an appropriation made from the general fund of the state for the fiscal year beginning July 1, 2000, shall not be reduced if the appropriation is any of the following:

- a. An appropriation described or specified in subsection 4.
- b. An appropriation made in section 2.12.
- c. An appropriation to the judicial branch.

2. The reduction in appropriations made pursuant to subsection 1 shall be carried out by the governor in the manner specified in section 8.31, except as provided in subsection 4. However, provided that the total amount of the reductions required by this section remains unchanged, the governor may approve the exercise of transfer authority under section 8.39 as necessary to prudently adjust the reductions made to individual appropriations and the report required under this subsection shall constitute the notice otherwise required under section 8.39, subsection 3. Upon implementation of the appropriations reductions specified in subsection 1, the department of management shall submit a report to the chairpersons and ranking members of the appropriations committees of each chamber of the general assembly specifying how the reductions were applied and if any transfers were authorized.

3. Moneys which become available as a result of the appropriations reductions made pursuant to this section shall be considered to have reverted to the general fund of the state on the effective date of this section.

4. The appropriations reductions made in subsection 1 shall not be applied to the appropriations made from the general fund of the state for the fiscal year beginning July 1, 2000, for any of the following:

a. To the state board of regents for the state school for the deaf and the Iowa braille and sight saving school in 2000 Iowa Acts, chapter 1223, section 11, and other enactments making appropriations from the general fund of the state for the schools for that fiscal year.

b. To the department of human services in 2000 Iowa Acts, chapter 1228, and other enactments making appropriations from the general fund of the state to the department for that fiscal year for the following purposes: medical assistance, pharmaceutical case management study, health insurance premium payment program, children's health insurance program, medical contracts, and state supplementary assistance.

c. To the department of corrections in 2000 Iowa Acts, chapter 1229, and other enactments making appropriations from the general fund of the state to the department for that fiscal year for the following purposes: for correctional facilities under 2000 Iowa Acts, chapter 1229, section 4, and for annual payment relating to the financial arrangement for the construction or expansion of prison capacity, under 2000 Iowa Acts, chapter 1229, section 5, subsection 3.

d. To appropriations made from the general fund of the state for the following purposes: state unemployment compensation in section 96.13, personal property tax replacement in section 405A.8, franchise tax revenue allocation in section 405A.10, statewide fire and police retirement system in section 411.20, federal Cash Management and Improvement Act interest costs in section 421.31, livestock production credit refund in section 422.121, homestead tax credit in section 425.1, extraordinary property tax credit and reimbursement in section 425.39, agricultural land tax credit in section 426.1, military service tax credit in section 426A.1A, property tax relief fund in section 426B.1, industrial machinery, equipment and computers property tax replacement fund in section 427B.19A, and cigarette and little cigar tax stamps in section 453A.8.

e. To the commission of veterans affairs in 2000 Iowa Acts, chapter 1222, section 7, subsection 3, and other enactments making appropriations from the general fund of the state to the commission for that fiscal year for the following purpose: for the Iowa veterans home.



f. To the treasurer of state for Iowa communications network debt service in 2000 Iowa Acts, chapter 1226, section 1.

g. For the Iowa early intervention block grant program in section 256D.5, for instructional support and state aid to school corporations in section 257.16, for child development grants and other programs for at-risk children in section 279.51, for nonpublic school pupil transportation in section 285.2, for educational excellence in section 294A.25, and for school improvement technology in section 295.2.

h. To the state board of regents for tuition replacement in 2000 Iowa Acts, chapter 1223, section 11, subsection 1, paragraph "b".\*

DIVISION IV  
ADMINISTRATION AND REGULATION  
DEPARTMENT OF GENERAL SERVICES

Sec. 4. 2000 Iowa Acts, chapter 1231, section 8, subsection 3, is amended to read as follows:

3. CAPITOL PLANNING COMMISSION

For expenses of the members in carrying out their duties under chapter 18A:

.....	\$	2,000
.....		<u>1,284</u>

DIVISION V  
AGRICULTURE AND NATURAL RESOURCES  
SOIL CONSERVATION DIVISION

Sec. 5. 2000 Iowa Acts, chapter 1224, section 1, subsection 4, paragraph a, is amended to read as follows:

a. For salaries, support, maintenance, assistance to soil conservation districts, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	6,985,526
.....		<u>6,435,526</u>
.....	FTEs	195.11

ENVIRONMENT FIRST FUND — AGRICULTURE

Sec. 6. 2000 Iowa Acts, chapter 1225, section 25, subsections 3 and 4, are amended to read as follows:

3. To initiate a statewide voluntary farm management demonstration program to demonstrate the effectiveness and adaptability of emerging practices in agronomy that protect water resources and provide other environmental benefits:

.....	\$	850,000
.....		<u>350,000</u>

4. For assisting farm operators in applying for project grants associated with the statewide voluntary farm management demonstration program:

.....	\$	50,000
.....		<u>0</u>

Sec. 7. ENVIRONMENT FIRST FUND — SOIL CONSERVATION DIVISION. There is appropriated from the environment first fund to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the soil conservation division:

.....	\$	550,000
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\* Item veto; see message at end of the Act

DIVISION VI  
ECONOMIC DEVELOPMENT

Sec. 8. 2000 Iowa Acts, chapter 1230, section 1, subsection 2, paragraph a, unnumbered paragraphs 1 and 2, are amended to read as follows:

Business development operations

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

.....	\$	<u>4,810,534</u>
.....		<u>4,760,534</u>
.....	FTEs	27.75

Sec. 9. 2000 Iowa Acts, chapter 1230, section 1, subsection 3, paragraph a, is amended to read as follows:

a. Community assistance

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for administration of the community economic preparedness program, the Iowa community betterment program, and the city development board:

.....	\$	<u>855,031</u>
.....		<u>805,031</u>
.....	FTEs	10.50

Sec. 10. 2000 Iowa Acts, chapter 1230, section 1, subsection 3, paragraph c, unnumbered paragraphs 1 and 2, are amended to read as follows:

Community development program

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions, for rural resource coordination, rural community leadership, rural innovations grant program, and the rural enterprise fund:

.....	\$	<u>958,440</u>
.....		<u>908,440</u>
.....	FTEs	7.50

Sec. 11. 2000 Iowa Acts, chapter 1230, section 1, subsection 5, unnumbered paragraphs 1 and 2, are amended to read as follows:

Tourism operations and advertising

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

.....	\$	<u>4,040,413</u>
.....		<u>4,890,413</u>
.....	FTEs	18.52

DEPARTMENT OF WORKFORCE DEVELOPMENT

Sec. 12. 2000 Iowa Acts, chapter 1230, section 10, subsection 1, is amended to read as follows:

1. DIVISION OF LABOR SERVICES

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

.....	\$	<u>3,429,686</u>
.....		<u>3,425,686</u>
.....	FTEs	92.00

From the contractor registration fees, the division of labor services shall reimburse the department of inspections and appeals for all costs associated with hearings under chapter 91C, relating to contractor registration.

SCHOOL-TO-CAREER PROGRAM

Sec. 13. 2000 Iowa Acts, chapter 1230, section 34, is amended to read as follows:

SEC. 34. In lieu of the appropriation made in section 15.365, subsection 3, there is appropriated for the fiscal year beginning July 1, 2000, and ending June 30, 2001, ~~\$100,000, or so much thereof as is necessary,~~ \$0 from the general fund of the state to the department of economic development to pay refunds as provided under section 15.365.

DIVISION VII
HUMAN SERVICES
HAWK-I PROGRAM

Sec. 14. 2000 Iowa Acts, chapter 1228, section 11, unnumbered paragraph 2, is amended to read as follows:

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:

Table with 2 columns: Description and Amount. Row 1: \$ 4,984,508. Row 2: 3,684,508

STATE CASES

Sec. 15. 2000 Iowa Acts, chapter 1228, section 24, subsection 1, unnumbered paragraph 1, is amended to read as follows:

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:

Table with 2 columns: Description and Amount. Row 1: \$ 13,308,845. Row 2: 12,608,845

MH/MR/DD ALLOWED GROWTH
RISK POOL

Sec. 16. 1999 Iowa Acts, chapter 208, section 1, unnumbered paragraphs 2 and 3, and subsection 4, as amended by 2000 Iowa Acts, chapter 1228, section 38, are amended to read as follows:

For distribution to counties of the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment, in accordance with section 331.438, subsection 2, and section 331.439, subsection 3, and chapter 426B:

Table with 2 columns: Description and Amount. Row 1: \$ 20,982,446. Row 2: 19,868,987

The funding appropriated in this section is the allowed growth factor adjustment for fiscal year 2000-2001, and is allocated as follows:

4. For deposit in the risk pool created in the property tax relief fund pursuant to section 426B.5, subsection 3:

Table with 2 columns: Description and Amount. Row 1: \$ 1,208,844. Row 2: 95,385

DIVISION VIII
JUDICIAL BRANCH

\*Sec. 17. 2000 Iowa Acts, chapter 1227, section 2, is amended to read as follows:

SEC. 2. JUDICIAL RETIREMENT FUND. There is appropriated from the general fund of the state to the judicial retirement fund for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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

For the state's contribution to the judicial retirement fund established in section 602.9104, in the amount of ~~23.7~~ 16.6 percent of the basic salaries of the judges covered under chapter 602, article 9:

.....	\$	4,499,350
		<u>4,077,350*</u>

JUDICIAL RETIREMENT STATUTORY PROVISION

\*Sec. 18. Section 602.9104, subsection 4, paragraph b, Code 2001, is amended to read as follows:

b. Effective with the fiscal year commencing July 1, 1994, and for each subsequent fiscal year until the system attains fully funded status, based upon the benefits provided for judges through the judicial retirement system as of July 1, 2001, the state shall contribute annually to the judicial retirement fund an amount equal to at least ~~twenty-three and seven-tenths~~ sixteen and six-tenths percent of the basic salary of all judges covered under this article. Commencing with the first fiscal year in which the system attains fully funded status, based upon the benefits provided for judges through the judicial retirement system as of July 1, 2001, and for each subsequent fiscal year, the state shall contribute to the judicial retirement fund the required contribution rate. The state's contribution shall be appropriated directly to the judicial retirement fund.\*

DIVISION IX  
TRANSPORTATION

Sec. 19. 2000 Iowa Acts, chapter 1216, section 1, subsections 1 and 2, are amended to read as follows:

1. For airport engineering studies and improvement projects as provided in chapter 328:

.....	\$	2,475,000
		<u>2,435,000</u>

Of the amount appropriated in this subsection, \$25,000 shall be allocated to the Iowa civil air patrol.

2. For the rail assistance program and to provide economic development project funding:

.....	\$	662,000
		<u>602,000</u>

DIVISION X  
EFFECTIVE DATE

Sec. 20. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 13, 2001, with exceptions noted.

THOMAS J. VILSACK, Governor

Dear President Kramer:

I hereby transmit Senate File 267, an Act relating to state budgetary matters by providing for reductions and supplementation of appropriations made for the fiscal year beginning July 1, 2000, and transferring, crediting, and appropriating certain moneys, and providing an effective date.

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

We have some very difficult choices ahead of us as we determine next year's state budget. Rather than create chaos with the state's budget during the last months of this fiscal year, we need to get down to the serious business of focusing on next year's budget. With revenues down, we will need to aggressively address next year's budget in a thoughtful, planned, and bipartisan manner.

Senate File 267 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve Division III, Section 3 in its entirety. This provision requires a one percent reduction for most general fund appropriations. Under this Section, education and human services programs would bear the brunt of the cuts. I made it very clear to Republicans that if they chose to move forward with budget cuts, they would assume the responsibility for determining which programs and services should be eliminated. Instead of thoughtfully studying how these cuts would effect Iowans, they chose to make an across the board cut mandating a reduction in services without specifying which services to reduce or eliminate.

I am unable to approve the language contained in Division VIII, Sections 17 and 18. These provisions would reduce the state's contribution to the judicial retirement system during the current fiscal year and future fiscal years. At this time, the judicial retirement system is not actuarially sound. Reducing the contributions to the fund, delays achievement of our long held goal of fully funding the judicial retirement system.

In my continued effort to work in a bipartisan manner, I am approving a number of cuts to the FY 2001 budget. The Republican controlled legislature rejected bipartisanship by passing rash and not well thought out cuts that were not agreed to and would have unnecessarily disrupted services to Iowans.

I made it very clear to Republican legislative leaders that if they chose to move forward with budget cuts, they would need to identify which programs and services should be eliminated. Instead of thoughtfully studying how these cuts would affect Iowans, they chose a rash approach that would create chaos in the services on which Iowans rely.

The State of Iowa has experienced a serious decline in revenues, a decline that is unprecedented in twenty years. However, the current fiscal year is not the problem as the state will have adequate resources available to meet the needs of Iowans. This bill would have disrupted services to Iowans.

The decisions of the past limit our flexibility in responding to the FY 2002 budget. We will be fiscally responsible and we will deal with the challenge presented to us. In this challenge, we have an opportunity to find efficient and effective ways for delivering services to Iowans.

For the above reasons, I hereby approve Senate File 267 with the exceptions noted above.

Sincerely,  
THOMAS J. VILSACK, *Governor*

**CHAPTER 173**

**SUPPLEMENTAL APPROPRIATIONS —  
DEPARTMENT OF TRANSPORTATION — ROAD SALT**

*S.F. 509*

**AN ACT** making a supplemental appropriation to the state department of transportation from the primary road fund for the purchase of salt and including an effective date.

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

Section 1. STATE DEPARTMENT OF TRANSPORTATION — SUPPLEMENTAL APPROPRIATION. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 2000, and ending June 30, 2001, to supplement the appropriations made in 2000 Iowa Acts, chapter 1216, section 3, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To purchase up to 76,000 tons of salt to restock the department’s year-end salt inventory, under the current contract prices:

.....	\$	2,280,000
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Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 30, 2001

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**CHAPTER 174**

**TOBACCO SETTLEMENT TRUST FUND —  
APPROPRIATIONS TO IOWA’S HEALTH ACCOUNT**

*S.F. 533*

**AN ACT** relating to and making appropriations to the tobacco settlement trust fund and providing a contingent effective date.

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

Section 1. TOBACCO SETTLEMENT TRUST FUND.

1. Notwithstanding provisions to the contrary in sections 99D.17 and 99F.11, and notwithstanding provisions to the contrary in section 8.57, subsection 5, paragraph “e”, and following deposits in the general fund of the state, the vision Iowa fund created in section 12.72, and the school infrastructure fund created in section 12.82, pursuant to section 8.57, subsection 5, paragraph “e”, for the designated fiscal years, the following moneys received pursuant to sections 99D.17 and 99F.11 shall be deposited in the endowment for Iowa’s health account of the tobacco settlement trust fund created in section 12E.12 for the purposes specified in section 12E.12 for the endowment for Iowa’s health account:

FY 2001-2002 .....	\$	80,000,000
FY 2002-2003 .....	\$	75,000,000
FY 2003-2004 .....	\$	70,000,000
FY 2004-2005 .....	\$	70,000,000
FY 2005-2006 .....	\$	70,000,000
FY 2006-2007 .....	\$	70,000,000

The total moneys received pursuant to sections 99D.17 and 99F.11 in a fiscal year, in excess of the moneys received pursuant to sections 99D.17 and 99F.11 and deposited in the general fund of the state, the vision Iowa fund, the school infrastructure fund, and the tobacco settlement trust fund, shall be deposited in the rebuild Iowa infrastructure fund and shall be used as provided in section 8.57, notwithstanding section 8.60.

2. There is appropriated from the general fund of the state to the endowment for Iowa's health account of the tobacco settlement trust fund created in section 12E.12, for the designated fiscal years, the following amounts, to be used for the purposes specified in section 12E.12 for the endowment for Iowa's health account:

FY 2001-2002 .....	\$	7,248,000
FY 2002-2003 .....	\$	27,087,000
FY 2003-2004 .....	\$	28,251,000
FY 2004-2005 .....	\$	29,785,000
FY 2005-2006 .....	\$	29,562,000
FY 2006-2007 .....	\$	17,773,000

Sec. 2. NONREVERSION. Notwithstanding section 8.33, moneys deposited in or appropriated to the tobacco settlement trust fund under this Act that remain unencumbered or unobligated at the close of any fiscal year shall be retained in the tobacco settlement trust fund.

Sec. 3. CONTINGENT EFFECTIVE DATE. This Act shall take effect only if 2001 Iowa Acts, Senate File 532<sup>1</sup> is enacted and only if the tobacco settlement authority established in chapter 12E securitizes tobacco master settlement agreement payments sold to the authority pursuant to 2001 Iowa Acts, Senate File 532.<sup>2</sup>

If the contingencies of this section are met, the effective date of this Act shall be the effective date of the receipt of the bond proceeds by the tobacco settlement authority and the deposit of the proceeds of the tax-exempt bonds and the taxable bonds in the respective accounts of the tobacco settlement trust fund pursuant to chapter 12E, and specifically pursuant to section 12E.9.

Approved May 2, 2001

**CHAPTER 175**

**APPROPRIATIONS — ENERGY CONSERVATION PROGRAMS FUNDING**

*H.F. 706*

**AN ACT** relating to energy conservation including making appropriations of petroleum overcharge funds.

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

Section 1. There is appropriated from those funds designated within the energy conservation trust created in section 473.11, for disbursement pursuant to section 473.11, to the following named agencies for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To the division of community action agencies of the department of human rights for qualifying energy conservation programs for low-income persons, including but not limited

<sup>1</sup> Chapter 164 herein

<sup>2</sup> Chapter 164 herein

to energy weatherization projects, which target the highest energy users, and including administrative costs:

a. To be expended first from the office of hearings and appeals second-stage settlement (OHA) fund and the Warner/Imperial fund and the Diamond Shamrock fund and then the Stripper Well fund:

..... \$ 182,000

b. To be expended from the Exxon fund:

..... \$ 68,000

2. To the department of natural resources for the following purposes:

a. For the state energy program, from the Exxon fund:

..... \$ 30,000

b. For administration of petroleum overcharge programs from the Stripper Well fund, not to exceed the following amount:

..... \$ 150,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining at the end of any fiscal year from the appropriations made in subsections 1 and 2 shall not revert but shall be available for expenditure during subsequent fiscal years until expended for the purposes for which originally appropriated.

Approved May 2, 2001

**CHAPTER 176**

**MISCELLANEOUS APPROPRIATIONS,  
REDUCTIONS, AND OTHER PROVISIONS**

*H.F. 755*

**AN ACT** relating to public expenditure and regulatory matters, making and reducing appropriations, and including effective date and retroactive applicability provisions.

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

**DIVISION I**

**MH/MR/DD — ALLOWED GROWTH**

Section 1. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES ALLOWED GROWTH FACTOR ADJUSTMENT AND ALLOCATIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For distribution to counties of the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment, as provided in this section in lieu of the provisions of section 331.438, subsection 2, and section 331.439, subsection 3, and chapter 426B:

..... \$ 14,874,702

The funding appropriated in this section is the allowed growth factor adjustment for fiscal year 2002-2003, and is allocated for distribution as provided by law.



DIVISION II  
STANDING APPROPRIATIONS — REDUCTIONS

Sec. 2. GENERAL ASSEMBLY. The budgets approved pursuant to section 2.12 for the expenses of the general assembly and legislative agencies for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are reduced by the following amount:

..... \$ 1,550,324

Sec. 3. PERFORMANCE OF DUTY. The appropriation made from the general fund of the state in section 7D.29, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, for performance of duty by the executive council, is reduced by the following amount:

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

Sec. 4. STATE APPEAL BOARD CLAIMS. Notwithstanding the standing appropriations in section 25.2, subsection 3, the amount appropriated from the general fund of the state under section 25.2, subsection 3, to the state appeal board to pay claims against the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:

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

Sec. 5. CONSTITUTIONAL AMENDMENTS AND PUBLIC MEASURES. Notwithstanding the standing appropriation in section 49A.9, the amount appropriated from the general fund of the state under section 49A.9, to the office of the secretary of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:

..... \$ 2,565

Sec. 6. AREA EDUCATION AGENCIES. Notwithstanding the provisions of chapter 257 that determine the funding for area education agencies, the state school foundation aid for these agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are reduced by the department of management by \$7,500,000. The department shall calculate a reduction such that each area education agency shall receive a reduction proportionate to the amount that it would have received under section 257.35 if the reduction imposed pursuant to this section did not apply. Notwithstanding the provisions of section 257.37, an area education agency may use the funds determined to be available under section 257.35 in a manner which it believes is appropriate to best maintain the level of required area education agency special education services.

*\*Sec. 7. EARLY INTERVENTION BLOCK GRANT. Notwithstanding the standing appropriation in section 256D.5, subsection 1, the amount appropriated from the general fund of the state under section 256D.5, subsection 1, to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:*

..... \$ 10,000,000\*

Sec. 8. SCHOOL IMPROVEMENT TECHNOLOGY. Notwithstanding the standing appropriation in section 256D.5, subsection 2, the amount appropriated from the general fund of the state under section 256D.5, subsection 2, to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:

..... \$ 20,000,000

In implementing the reduction in this section, the department of education shall compute under section 256D.6 the amount each school district, as defined in section 256D.6, and area education agency would have received but for the reduction in this section and shall reduce by two-thirds such amount.

Sec. 9. AT-RISK CHILDREN PROGRAMS. Notwithstanding the standing appropriation in section 279.51, subsection 1, the amount appropriated from the general fund of the state

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

under section 279.51, subsection 1, to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:  
..... \$ 1,000,000

The amount of the reduction in this section shall be prorated among the programs specified in section 279.51, subsection 1, paragraphs "a", "b", and "c".

*\*Sec. 10. NONPUBLIC SCHOOL TRANSPORTATION. Notwithstanding the standing appropriation in section 285.2, the amount appropriated from the general fund of the state under section 285.2 to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, shall be the following amount:*

..... \$ 7,645,000

*If total approved claims for reimbursement for nonpublic school pupil transportation claims exceed the amount appropriated in this section, the department of education shall prorate the amount of each claim.\**

*\*Sec. 11. EDUCATIONAL EXCELLENCE. Notwithstanding section 294A.25, subsection 1, the amount appropriated from the general fund of the state under section 294A.25, subsection 1, to the department of education for phase III moneys for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:*

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

Sec. 12. PUBLIC TRANSIT ASSISTANCE APPROPRIATION. Notwithstanding section 312.2, subsection 14, the amount appropriated from the general fund of the state under section 312.2, subsection 14, to the state department of transportation for public transit assistance under chapter 324A for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:

..... \$ 659,820

Sec. 13. INDIAN SETTLEMENT OFFICER. Notwithstanding the standing appropriation in section 331.660, the amount appropriated from the general fund of the state under section 331.660, to the county of Tama for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:

..... \$ 25,000

Sec. 14. COURT COSTS FOR SPECIAL STATE CASES. Notwithstanding the standing appropriation in section 815.1, the amount appropriated from the general fund of the state under section 815.1, to pay special court costs and attorney fees for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is reduced by the following amount:

..... \$ 66,370

Sec. 15. Section 196.8, subsection 2, Code 2001, is amended to read as follows:

2. Notwithstanding subsection 1, eggs gathered for sale at a poultry show from fowl exhibited at the show, which show has received financial assistance from the state in prior fiscal years, shall be exempt from the storage temperature and consumer grade quality requirements contained in subsection 1. ~~If eggs are offered for sale at such an exhibit, five hundred dollars is appropriated to the department to reimburse the sponsoring agency of the exhibit for the expenses associated with the exhibit.~~

DIVISION III  
LAW ENFORCEMENT PHYSICAL EXAMS

Sec. 16. Section 400.8, subsection 1, Code 2001, is amended to read as follows:

1. The commission, when necessary under the rules, including minimum and maximum age limits, which shall be prescribed and published in advance by the commission and posted in the city hall, shall hold examinations for the purpose of determining the qualifications of applicants for positions under civil service, other than promotions, which examina-

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

tions shall be practical in character and shall relate to matters which will fairly test the mental and physical ability of the applicant to discharge the duties of the position to which the applicant seeks appointment. The physical examination of applicants for appointment to the positions of police officer, police matron, or fire fighter shall be held in accordance with medical protocols established by the board of trustees of the fire and police retirement system established by section 411.5 and shall be conducted ~~by the medical board as established in section 411.5~~ in accordance with the directives of the board of trustees. The board of trustees may change the medical protocols at any time the board so determines. The physical examination of an applicant for the position of police officer, police matron, or fire fighter shall be conducted after a conditional offer of employment has been made to the applicant. An applicant shall not be discriminated against on the basis of height, weight, sex, or race in determining physical or mental ability of the applicant. Reasonable rules relating to strength, agility, and general health of applicants shall be prescribed. The costs of the physical examination required under this subsection shall be paid from the trust and agency fund of the city.

Sec. 17. 2000 Iowa Acts, chapter 1077, section 111, is amended to read as follows:

SEC. 111. EFFECTIVE DATE. Section 87 of this Act amending section 411.1, subsection 10, and section 94 of this Act, amendment<sup>1</sup> section 411.5, subsection 8, take effect July 1, ~~2001~~ 2002.

Sec. 18. EFFECTIVE DATE. Section 17 of this division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV  
DEBT SERVICE AND TOBACCO FUND APPROPRIATIONS  
PAYMENTS IN LIEU OF TUITION

Sec. 19. PAYMENTS IN LIEU OF TUITION — GENERAL FUND. In lieu of the appropriation made to the state board of regents for tuition replacement in 2001 Iowa Acts, Senate File 535,<sup>2</sup> section 8, subsection 1, paragraph “b”, if enacted, there is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa to reimburse the institutions for deficiencies in their operating funds resulting from the pledging of tuitions, student fees and charges, and institutional income to finance the cost of providing academic and administrative buildings and facilities and utility services at the institutions:

..... \$ 26,081,384

Sec. 20. PAYMENTS IN LIEU OF TUITION — TOBACCO SETTLEMENT FUND. In addition to the appropriation made in this division of this Act from the general fund of the state to the state board of regents for purposes of tuition replacement, there is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund created in section 12E.12, pursuant to 2001 Iowa Acts, Senate File 532,<sup>3</sup> if enacted, to the state board of regents for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa to finance or pay debt service to pay debt to finance the cost of providing academic and administrative buildings and facilities at the institutions:

..... \$ 600,330

<sup>1</sup> The word “amending” probably intended

<sup>2</sup> Chapter 181 herein

<sup>3</sup> Chapter 164 herein

IOWA COMMUNICATIONS NETWORK

Sec. 21. IOWA COMMUNICATIONS NETWORK DEBT SERVICE — GENERAL FUND. In lieu of the appropriation made to the treasurer of state for Iowa communications network debt service in 2001 Iowa Acts, House File 719,<sup>4</sup> section 1, if enacted, there is appropriated from the general fund of the state to the treasurer of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For debt service for the Iowa communications network:

..... \$ 9,939,165

Sec. 22. IOWA COMMUNICATIONS NETWORK DEBT SERVICE — TOBACCO SETTLEMENT FUND. In addition to the appropriation made in this division of this Act from the general fund of the state to the treasurer of state for purposes of Iowa communications network debt service, there is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund created in section 12E.12, pursuant to 2001 Iowa Acts, Senate File 532,<sup>5</sup> if enacted, to the treasurer of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For debt service for the Iowa communications network:

..... \$ 1,465,835

Sec. 23. DEBT SERVICE FUND. Funds appropriated in this division of this Act for Iowa communications network debt service shall be deposited in a separate fund established in the office of the treasurer of state to be used solely for debt service for the Iowa communications network. The Iowa telecommunications and technology commission shall certify to the treasurer of state when a debt service payment is due, and upon receipt of the certification, the treasurer shall make the payment. The commission shall pay any additional amount due from funds deposited in the Iowa communications network fund.

PRISON DEBT SERVICE

Sec. 24. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund created in section 12E.12, pursuant to 2001 Iowa Acts, Senate File 532,<sup>6</sup> if enacted, to the treasurer of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For repayment of prison infrastructure bonds under section 16.177:

..... \$ 5,182,272

TOBACCO MASTER SETTLEMENT AGREEMENT LITIGATION

Sec. 25. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund created in section 12E.12, pursuant to 2001 Iowa Acts, Senate File 532,<sup>7</sup> if enacted, to the treasurer of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For payment of litigation fees incurred pursuant to the tobacco master settlement agreement:

..... \$ 10,617,000

Sec. 26. CONTINGENT EFFECTIVE DATE. This division of this Act shall take effect only if 2001 Iowa Acts, Senate File 532<sup>8</sup> is enacted and only if the tobacco settlement

<sup>4</sup> Chapter 189 herein  
<sup>5</sup> Chapter 164 herein  
<sup>6</sup> Chapter 164 herein  
<sup>7</sup> Chapter 164 herein  
<sup>8</sup> Chapter 164 herein

authority established in chapter 12E securitizes tobacco master settlement agreement payments sold to the authority pursuant to 2001 Iowa Acts, Senate File 532.<sup>9</sup> If the contingencies of this section are met, the effective date of this division of this Act shall be the effective date of the receipt of the bond proceeds by the tobacco settlement authority and the deposit of the proceeds of the tax-exempt bonds and the taxable bonds in the respective accounts of the tobacco settlement trust fund pursuant to chapter 12E, and specifically pursuant to section 12E.9. Payment of moneys from the appropriations in this division of this Act shall be made in a manner that does not adversely affect the tax-exempt status of any outstanding bonds issued by the tobacco settlement authority.

DIVISION V  
MISCELLANEOUS

Sec. 27. DEPARTMENT OF EDUCATION. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. AMERICORPS AFTER-SCHOOL INITIATIVE

For purposes of the americorps after-school initiative:  
..... \$ 150,000

2. JOBS FOR AMERICA'S GRADUATES

For school districts to provide direct services to the most at-risk senior high school students enrolled in school districts through direct intervention for a "jobs for America's graduates" specialist:

..... \$ 150,000

Sec. 28. DEPARTMENT OF HUMAN SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement the appropriation made in 2001 Iowa Acts, House File 732,<sup>10</sup> if enacted, for general administration, including salaries, support, maintenance, and miscellaneous purposes:  
..... \$ 2,000,000

Sec. 29. Notwithstanding section 8.55, subsection 4, and section 8.56, subsection 1, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the interest and earnings on moneys deposited in the Iowa economic emergency fund and the cash reserve fund shall be credited to the general fund of the state.

Sec. 30. Notwithstanding any contrary provision in section 455E.11, subsection 1, Code 2001, any unencumbered or unobligated balance in the groundwater protection fund and in any of the accounts within the groundwater protection fund on June 30, 2001, shall be transferred to the general fund of the state.<sup>11</sup>

Sec. 31. Section 135.24, subsection 2, paragraph c, Code 2001, is amended to read as follows:

c. Identification of the medical services to be provided under the program. The medical services provided ~~shall may include, but shall not be limited to,~~ obstetrical and gynecological medical services, and psychiatric services provided by a physician licensed under chapter 148, 150, or 150A.

Sec. 32. Section 257.6, subsection 3, unnumbered paragraph 1, as amended by 2001 Iowa Acts, House File 643,<sup>12</sup> section 6, if enacted, is amended to read as follows:

A school district shall determine its additional enrollment because of special education, as defined in this section, ~~on~~ by November 1 of each year and shall certify its additional

<sup>9</sup> Chapter 164 herein

<sup>10</sup> Chapter 191 herein

<sup>11</sup> See chapter 185, §47 herein

<sup>12</sup> Chapter 159 herein

enrollment because of special education to the department of education by November 15 of each year, and the department shall promptly forward the information to the department of management.

Sec. 33. Section 257.6, subsection 5, unnumbered paragraph 1, as amended by 2001 Iowa Acts, House File 643,<sup>13</sup> section 7, if enacted, is amended to read as follows:

Weighted enrollment is the budget enrollment plus the district's additional enrollment because of special education calculated on ~~en~~ by November 1 of the base year plus additional pupils added due to the application of the supplementary weighting.

\*Sec. 34. *MENTAL ILLNESS SPECIAL SERVICES.* For the fiscal year beginning July 1, 2001, and ending June 30, 2002, it is the intent of the general assembly that the Iowa finance authority shall provide \$121,220 from funding available to the authority to be used for mental illness special services.

1. The Iowa finance authority shall use the funding to continue the financing for existing community-based facilities and the financing for the development of affordable community-based housing facilities as funded pursuant to 2000 Iowa Acts, chapter 1228, section 22. The department of human services shall assure that clients are referred to the housing as it is developed.

2. The purpose of the financing is to provide funds for construction and start-up costs to develop community living arrangements to provide for persons with mental illness who are homeless. These funds may be used to match federal Stewart B. McKinney Homeless Assistance Act grant funds.\*

Sec. 35. Section 260G.4B, subsection 1, Code 2001, is amended to read as follows:

1. The total amount of program job credits from all employers which shall be allocated for all accelerated career education programs in the state in any one fiscal year shall not exceed the sum of three million dollars in the fiscal year beginning July 1, 2000, ~~six~~ three million dollars in the fiscal year beginning July 1, 2001, and six million dollars in the fiscal year beginning July 1, 2002, and every fiscal year thereafter. Any increase in program job credits above the six-million-dollar limitation per fiscal year shall be developed, based on recommendations in a study which shall be conducted by the department of economic development of the needs and performance of approved programs in the fiscal years beginning July 1, 2000, and July 1, 2001. The study's findings and recommendations shall be submitted to the general assembly by the department by December 31, 2002. The study shall include but not be limited to an examination of the quality of the programs, the number of program participant placements, the wages and benefits in program jobs, the level of employer contributions, the size of participating employers, and employer locations. A community college shall file a copy of each agreement with the department of economic development. The department shall maintain an annual record of the proposed program job credits under each agreement for each fiscal year. Upon receiving a copy of an agreement, the department shall allocate any available amount of program job credits to the community college according to the agreement sufficient for the fiscal year and for the term of the agreement. When the total available program job credits are allocated for a fiscal year, the department shall notify all community colleges that the maximum amount has been allocated and that further program job credits will not be available for the remainder of the fiscal year. Once program job credits have been allocated to a community college, the full allocation shall be received by the community college throughout the fiscal year and for the term of the agreement even if the statewide program job credit maximum amount is subsequently allocated and used.

Sec. 36. Section 273.22, subsection 5, as amended<sup>14</sup> by 2001 Iowa Acts, House File 674,<sup>15</sup> section 4, if enacted, is amended to read as follows:

5. The board of directors of a school district that is contiguous to a newly reorganized area education agency may petition the board of directors of a ~~contiguous~~ contiguous ~~their current~~ area

<sup>13</sup> Chapter 159 herein

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

<sup>14</sup> The word "enacted" probably intended

<sup>15</sup> Chapter 114 herein

education agency and the newly reorganized area education agency to join ~~that the newly reorganized~~ area education agency. ~~If the contiguous both~~ area education agency ~~board approves~~ boards approve the petition, the reorganization shall take effect on July 1 of the school year following approval of the petition by the state board. A school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

Sec. 37. Section 273.22, as amended<sup>16</sup> by 2001 Iowa Acts, House File 674,<sup>17</sup> section 4, if enacted, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The board of directors of a school district that is within a newly reorganized area education agency and whose school district was contiguous to another area education agency prior to the reorganization, may petition the board of directors of the newly reorganized area education agency and the contiguous area education agency to join that area education agency. If both area education agency boards approve the petition, the reorganization shall take effect on July 1 of the school year following approval of the petition by the state board. A school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

Sec. 38. Section 299A.8, as amended by 2001 Iowa Acts, House File 643,<sup>18</sup> section 16, if enacted, is amended to read as follows:

299A.8 DUAL ENROLLMENT.

If a parent, guardian, or legal custodian of a child who is receiving competent private instruction under this chapter or a child over compulsory age who is receiving private instruction submits a request, the child shall also be registered in a public school for dual enrollment purposes. If the child is enrolled in a public school district for dual enrollment purposes, the child shall be permitted to participate in any academic activities in the district and shall also be permitted to participate on the same basis as public school children in any extracurricular activities available to children in the child's grade or group, and the parent, guardian, or legal custodian shall not be required to pay the costs of any annual evaluation under this chapter. If the child is enrolled for dual enrollment purposes, the child shall be included in the public school's basic enrollment under section 257.6. A pupil who is participating only in extracurricular activities shall be counted under section 257.6, subsection 1, paragraph "f". A pupil enrolled in grades nine through twelve under this section shall be counted in the same manner as a shared-time pupil under section 257.6, subsection 1, paragraph "c".

\*Sec. 39. Section 301.1, unnumbered paragraph 2, Code 2001, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

*Text books adopted and purchased by a school district shall, to the extent funds are appropriated by the general assembly, be made available to pupils attending accredited nonpublic schools. The department of education shall ascertain a maximum annual amount a school district shall be required to use for the purchase of textbooks for accredited nonpublic schools. The amount shall be in the proportion that the basic enrollment of an accredited nonpublic school bears to the sum of the basic enrollments of all participating accredited nonpublic schools in the state for the budget year. An accredited nonpublic school shall certify its actual enrollment to the department of education by October 1, annually. By October 15, annually, the department of education shall notify the board of directors of each school district of the maximum amount of its allocation that shall be made available for purchasing nonsectarian, nonreligious textbooks for each of the accredited nonpublic schools located within the school district in accordance with this paragraph. For purposes of this paragraph, an accredited nonpublic school's enrollment count shall include only students who are residents of Iowa. The costs of providing textbooks to accredited nonpublic schools as provided in this paragraph shall not be included in the computation of district cost under chapter 257, but shall be*

<sup>16</sup> The word "enacted" probably intended

<sup>17</sup> Chapter 114 herein

<sup>18</sup> Chapter 159 herein

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

*shown in the budget as an expense from miscellaneous income. Textbook expenditures made in accordance with this paragraph shall be kept on file in the school district. As used in this paragraph, "textbooks" means books and loose-leaf or bound manuals, systems of reusable instructional materials or combinations of books and supplementary instructional materials which convey information to the student or otherwise contribute to the learning process, or electronic textbooks, including but not limited to computer software, applications using computer-assisted instruction, interactive videodisc, and other computer courseware and magnetic media.\**

Sec. 40. Section 403.19, subsection 2, Code 2001, is amended to read as follows:

2. That portion of the taxes each year in excess of such amount shall be allocated to and when collected be paid into a special fund of the municipality to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of section 403.9, subsection 1, incurred by the municipality to finance or refinance, in whole or in part, an urban renewal project within the area, and to provide assistance for low and moderate income family housing as provided in section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to section 298.2 and taxes for the payment of bonds and interest of each taxing district must be collected against all taxable property within the taxing district without limitation by the provisions of this subsection. However, all or a portion of the taxes for the physical plant and equipment levy shall be paid by the school district to the municipality if the municipality auditor certifies to the school district by July 1 the amount of such levy that is necessary to pay the principal and interest on ~~indebtedness incurred~~ bonds issued by the municipality to finance an urban renewal project, which ~~indebtedness was incurred~~ bonds were issued before July 1, ~~2000~~ 2001. Indebtedness incurred to refund bonds issued prior to July 1, 2001, shall not be included in the certification. Such school district shall pay over the amount certified by November 1 and May 1 of the fiscal year following certification to the school district. Unless and until the total assessed valuation of the taxable property in an urban renewal area exceeds the total assessed value of the taxable property in such area as shown by the last equalized assessment roll referred to in subsection 1, all of the taxes levied and collected upon the taxable property in the urban renewal area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in such urban renewal area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

Sec. 41. Section 403.19, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 7. For any fiscal year, a municipality may certify to the county auditor for physical plant and equipment revenue necessary for payment of principal and interest on bonds issued prior to July 1, 2001, only if the municipality certified for such revenue for the fiscal year beginning July 1, 2000. A municipality shall not certify to the county auditor for a school district more than the amount the municipality certified for the fiscal year beginning July 1, 2000. If for any fiscal year a municipality fails to certify to the county auditor for a school district by July 1 the amount of physical plant and equipment revenue necessary for payment of principal and interest on such bonds, as provided in subsection 2, the school district is not required to pay over the revenue to the municipality. If a school district and a municipality are unable to agree on the amount of physical plant and equipment revenue certified by the municipality for the fiscal year beginning July 1, 2001, either party may request that the state appeal board review and finally pass upon the amount that may be certified. Such appeals must be presented in writing to the state appeal board no later than July 31 following certification. The burden shall be on the municipality to prove that the physical plant and equipment levy revenue is necessary to pay principal and inter-

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



est on bonds issued prior to July 1, 2001. A final decision must be issued by the state appeal board no later than the following October 1.

*\*Sec. 42. Section 427.1, subsection 19, Code 2001, as amended by 2001 Iowa Acts, Senate File 514, is amended by adding the following new unnumbered paragraph:*

**NEW UNNUMBERED PARAGRAPH.** *For purposes of establishing the valuation limitation under this subsection, if more than one person has an ownership interest in the property, the multiple owners shall be considered one owner so that the two hundred thousand dollar limitation cannot be exceeded as a result of multiple ownership. For purposes of applying the valuation limitation to multiple properties owned by the same person, the two hundred thousand dollar limitation shall apply per owner on a statewide basis.\**

Sec. 43. Section 483A.27, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 11. A hunter safety and ethics instructor certified by the department shall be allowed to conduct an approved hunter safety and ethics education course on public school property with the approval of a majority of the board of directors of the school district. The conduct of an approved hunter safety and ethics education course is not a violation of any public policy, rule, regulation, resolution, or ordinance which prohibits the possession, display, or use of a firearm, bow and arrow, or other hunting weapon on public school property or other public property in this state.

*\*Sec. 44. Section 301.30, Code 2001, is repealed.\**

Sec. 45. 2001 Iowa Acts, House File 259,<sup>19</sup> shall not take effect July 1, 2001, but shall take effect January 1, 2002.

Sec. 46. EFFECTIVE DATE. Section 45 of this division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 47. EFFECTIVE AND APPLICABILITY DATES. Sections 40 and 41 of this division of this Act, being deemed of immediate importance, take effect upon enactment and apply to property taxes due and payable in fiscal years beginning on or after July 1, 2002.

*\*Sec. 48. CONTINGENT EFFECTIVE DATE. Section 42 of this Act shall take effect only if 2001 Iowa Acts, Senate File 514 is enacted without adoption of amendment H-1883 or, in the alternative, Senate File 514 is enacted without adoption of H-1914 to amendment H-1897 to Senate File 514.\**

#### DIVISION VI SCHEDULED VIOLATIONS

Sec. 49. Section 321.17, Code 2001, is amended to read as follows:

#### 321.17 MISDEMEANOR TO VIOLATE REGISTRATION PROVISIONS.

It is a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 2, paragraph "b", for any person to drive or move or for an owner knowingly to permit to be driven or moved upon the highway a vehicle of a type required to be registered under this chapter which is not registered, or for which the appropriate fee has not been paid, except as provided in section 321.109, subsection 3.

Sec. 50. Section 321.98, Code 2001, is amended to read as follows:

#### 321.98 OPERATION WITHOUT REGISTRATION.

~~No~~ A person shall not operate, ~~nor shall~~ and an owner shall not knowingly permit to be operated upon any highway any vehicle required to be registered and titled hereunder unless there shall be attached thereto and displayed thereon when and as required by this chapter a valid registration card and registration plate or plates issued therefor for the

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

<sup>19</sup> Chapter 38 herein

current registration year and unless a certificate of title has been issued for such vehicle except as otherwise expressly permitted in this chapter. Any violation of this section is a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 2, paragraph "b".

Sec. 51. Section 321.193, unnumbered paragraph 4, Code 2001, is amended to read as follows:

It is a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 4, paragraph "a", for a person to operate a motor vehicle in any manner in violation of the restrictions imposed on a restricted license issued to that person under this section.

Sec. 52. Section 321.216, unnumbered paragraph 1, Code 2001, is amended to read as follows:

It is a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 4, paragraph "b", for any person:

Sec. 53. Section 321.216B, Code 2001, is amended to read as follows:

321.216B USE OF DRIVER'S LICENSE OR NONOPERATOR'S IDENTIFICATION CARD BY UNDERAGE PERSON TO OBTAIN ALCOHOL.

A person who is under the age of twenty-one, who alters or displays or has in the person's possession a fictitious or fraudulently altered driver's license or nonoperator's identification card and who uses the license to violate or attempt to violate section 123.47, commits a simple misdemeanor punishable by a fine of one hundred dollars as a scheduled violation under section 805.8A, subsection 4, paragraph "c". The court shall forward a copy of the conviction to the department.

Sec. 54. Section 321.216C, Code 2001, is amended to read as follows:

321.216C USE OF DRIVER'S LICENSE OR NONOPERATOR'S IDENTIFICATION CARD BY UNDERAGE PERSON TO OBTAIN CIGARETTES OR TOBACCO PRODUCTS.

A person who is under the age of eighteen, who alters or displays or has in the person's possession a fictitious or fraudulently altered driver's license or nonoperator's identification card and who uses the license or card to violate or attempt to violate section 453A.2, subsection 2, commits a simple misdemeanor punishable by a fine of one hundred dollars as a scheduled violation under section 805.8A, subsection 4, paragraph "c". The court shall forward a copy of the conviction to the department.

Sec. 55. Section 321L.3, unnumbered paragraph 2, Code 2001, is amended to read as follows:

A person who fails to return the persons with disabilities parking permit and subsequently misuses the permit by illegally parking in a persons with disabilities parking space is guilty of a simple misdemeanor and subject to a fine of up to one hundred dollars punishable as a scheduled violation under section 805.8A, subsection 1, paragraph "c".

Sec. 56. Section 321L.7, Code 2001, is amended to read as follows:

321L.7 PENALTY FOR FAILING TO PROVIDE PERSONS WITH DISABILITIES PARKING SPACES AND SIGNS.

Failure to provide proper persons with disabilities parking spaces as provided in section 321L.5 or to properly display persons with disabilities parking signs as provided in section 321L.6 is a simple misdemeanor for which a fine of one hundred dollars shall be imposed for each violation punishable as a scheduled violation under section 805.8A, subsection 1, paragraph "c".

Sec. 57. Section 452A.52, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Any person who is unable to display either of the permits or the license provided in section 452A.53 and brings into the state in the fuel supply tanks of a commercial motor vehicle more than thirty gallons of motor fuel or special fuel in violation of the provisions of the

~~preceding paragraph is guilty of subsection 1<sup>20</sup> commits a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 13, paragraph "c".~~

*\*Sec. 58. CONFLICTING LEGISLATION. If both 2001 Iowa Acts, Senate File 499 and 2001 Iowa Acts, House File 561 are enacted by the Seventy-ninth General Assembly and if House File 561 maintains the scheduled fine for a violation of section 321.234A at one hundred dollars, the scheduled fine of fifty dollars, as enacted in Senate File 499, shall prevail and the scheduled fine of one hundred dollars, as enacted in House File 561, shall be void.\**

Sec. 59. CONTINGENT EFFECTIVENESS. This division of this Act takes effect only if 2001 Iowa Acts, Senate File 499<sup>21</sup> is enacted.

#### DIVISION VII CORRECTIVE AMENDMENTS

Sec. 60. Section 103A.3, subsections 10, 11, 20, and 25, Code 2001, are amended to read as follows:

10. "Ground anchoring system" means any device or combination of devices used to securely anchor a manufactured or mobile home to the ground.

11. "Ground support system" means any device or combination of devices placed beneath a manufactured or mobile home and used to provide support.

20. "Permanent site" means any lot or parcel of land on which a manufactured or mobile home used as a dwelling or place of business, is located for ninety consecutive days except a construction site when the manufactured or mobile home is used by a commercial contractor as a construction office or storage room.

25. "Tiedown system" means a ground support system and a ground anchoring system used in concert to provide anchoring and support for a manufactured or mobile home.

Sec. 61. Section 103A.26, Code 2001, if enacted by 2001 Iowa Acts, Senate File 185,<sup>22</sup> section 4, is amended to read as follows:

#### 103A.26 MANUFACTURED OR MOBILE HOME INSTALLERS CERTIFICATION — VIOLATION — CIVIL PENALTY.

1. a. A person who installs a manufactured or mobile home for another person shall be certified in accordance with rules adopted by the commissioner pursuant to chapter 17A. The commissioner may assess a fee sufficient to recover the costs of administering the certification of manufactured or mobile home installers. The commissioner may suspend or revoke the certification of a manufactured or mobile home installer for failure to perform installation of a manufactured or mobile home, pursuant to certification standards as provided by rules of the commissioner.

b. Notwithstanding section 103A.23, all fees collected by the commissioner for the administration of the manufactured or mobile home program shall be credited to the general fund of the state and are appropriated to the commissioner for the purpose of administering this certification program including the employment of personnel for the enforcement and administration of this program.

2. If a provision of this chapter or a rule adopted pursuant to this chapter relating to the manufacture or installation of a manufactured or mobile home is violated, the commissioner may assess a civil penalty not to exceed one thousand dollars for each offense. Each violation involving a separate manufactured or mobile home, or a separate failure or refusal to allow an act to be performed or to perform an act as required by this chapter, or a rule adopted pursuant to this chapter constitutes a separate offense. However, the maximum amount of civil penalties which may be assessed for any series of violations occurring within one year from the date of the first violation shall not exceed one million dollars.

<sup>20</sup> According to enrolled Act; unnumbered paragraph 1 probably intended

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

<sup>21</sup> Chapter 137 herein

<sup>22</sup> Chapter 100 herein

Sec. 62. Section 165A.5, subsection 1, as enacted by 2001 Iowa Acts, Senate File 209,<sup>23</sup> section 5, is amended to read as follows:

1. ~~Except as provided in this subsection, a~~ A person violating a provision of this chapter or any rule adopted pursuant to this chapter shall be subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars. The proceeding to assess a civil penalty shall be conducted as a contested case proceeding under chapter 17A.

Sec. 63. Section 172E.1, subsection 3, as enacted by 2001 Iowa Acts, Senate File 209,<sup>24</sup> section 6, is amended to read as follows:

3. "Livestock market" means any place where livestock are assembled from two or more sources for public auction, private sale, or sale on a commission basis, which is under state or federal supervision, including a livestock auction market, if such livestock are kept in the place for ten days or less.

Sec. 64. Section 232.21, subsection 4, Code 2001, as amended by 2001 Acts, Senate File 458,<sup>25</sup> section 5, if enacted, is amended to read as follows:

4. A child placed in a shelter care facility under this section shall not be held for a period in excess of forty-eight hours without an oral or written court order authorizing the shelter care. When the action is authorized by an oral court order, the court shall enter a written order before the end of the next day confirming the oral order and indicating the reasons for the order. A child placed in shelter care pursuant to section 232.19, subsection 1, paragraph "c", shall not be held in excess of seventy-two hours in any event. If deemed appropriate by the court, an order authorizing shelter care placement may include a determination that continuation of the child in the child's home is contrary to the child's welfare and that reasonable efforts as defined in section 232.57 have been made. The inclusion of such a determination shall not under any circumstances be deemed a prerequisite for entering an order pursuant to this section. However, the inclusion of such a ~~finding~~ determination, supported by the record, may assist the department in obtaining federal funding for the child's placement.

Sec. 65. Section 321.113, subsection 5, paragraph b, unnumbered paragraph 1, if enacted by 2001 Iowa Acts, Senate File 350,<sup>26</sup> section 4, is amended to read as follows:

If the title of a 1993 model year or older motor vehicle is transferred to a new owner or if such a motor vehicle is brought into the state on or after January 1, 2002, the registration fee shall not be based on the weight and list price of the motor vehicle, but shall be as follows:

Sec. 66. Section 322B.2, subsection 4, if enacted by 2001 Iowa Acts, House File 656,<sup>27</sup> section 2, is amended to read as follows:

4. "Manufactured or mobile home distributor" means a person who sells or distributes manufactured or mobile homes to manufactured or mobile home retailers.

Sec. 67. Section 331.303, subsection 1, paragraph b, Code 2001, as amended by 2001 Iowa Acts, Senate File 453,<sup>28</sup> section 1, is amended to read as follows:

b. A "warrant book" which records each warrant drawn in the order of issuance by number, date, amount, and name of drawee, and refers to the order in the minute book authorizing its drawing. The board may authorize the auditor to issue checks in lieu of warrants. If the issuance of checks is authorized, the word "check" shall be substituted for the word "warrant" in those sections of this chapter and chapters ~~6B, 11~~ 6B, 11, 35B, 336, 349, 350, 427B, and 468 in which the issuance of a check is authorized in lieu of a warrant.

<sup>23</sup> Chapter 101 herein

<sup>24</sup> Chapter 101 herein

<sup>25</sup> Chapter 135 herein

<sup>26</sup> Chapter 132 herein

<sup>27</sup> Chapter 153 herein

<sup>28</sup> Chapter 45 herein

Sec. 68. Section 351.39, Code 2001, as amended by 2001 Iowa Acts, House File 179,<sup>29</sup> section 1, is amended to read as follows:

351.39 CONFINEMENT.

If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after ten days the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. This section shall not apply to ~~if~~ a police service dog or a horse used by a law enforcement agency, ~~that is~~ and acting in the performance of its duties ~~which~~ has bitten a person.

Sec. 69. Section 466.8, unnumbered paragraph 1, as enacted by 2001 Iowa Acts, Senate File 479,<sup>30</sup> section 2, is amended to read as follows:

The department of natural resources shall establish an on-site wastewater systems assistance program for the purpose of providing low-interest loans to homeowners residing outside the boundaries of a city for improving on-site wastewater disposal systems.

Sec. 70. Section 466.8, subsection 4, as enacted by 2001 Iowa Acts, Senate File 479,<sup>31</sup> section 2, is amended to read as follows:

4. The department shall report to the general assembly annually on the progress of the on-site wastewater systems assistance program.

Sec. 71. Section 507B.4A, subsection 2, paragraph c, as enacted by 2001 Iowa Acts, Senate File 500,<sup>32</sup> section 8, is amended to read as follows:

c. The commissioner shall adopt rules establishing processes for timely adjudication and payment of claims by insurers for health care benefits. The rules shall be consistent with the time frames and other procedural standards for claims decisions by group health plans established by the United States department of labor pursuant to 29 C.F.R. pt. 2560 in effect ~~at the time of passage of this Act~~ on January 1, 2002.

Sec. 72. Section 522B.14, subsection 11, as enacted by 2001 Iowa Acts, Senate File 276,<sup>33</sup> section 28, is amended to read as follows:

11. An insurer, the authorized representative of the insurer, or an insurance producer that fails to report as required under this section, or that is found to have reported with actual malice by a court of competent jurisdiction, after notice and hearing, may have its license or certificate of authority suspended or revoked and may be ~~fin~~ penalized as provided in section 522B.17.

Sec. 73. Section 523A.401, subsection 5, paragraph c, if enacted by 2001 Iowa Acts, Senate File 473,<sup>34</sup> section 28, is amended to read as follows:

c. The policy shall have an increasing death benefit or similar feature that provides some means for increasing the funding as the cost of cemetery merchandise, funeral merchandise, and cemetery goods and funeral services increases.

Sec. 74. Section 523A.405, subsection 1, if enacted by 2001 Iowa Acts, Senate File 473,<sup>35</sup> section 32, is amended to read as follows:

1. In lieu of trust requirements, a seller may file with the commissioner a surety bond issued by a surety company authorized to do business and doing business within this state. The bond must be conditioned upon the seller's faithful performance of purchase agreements subject to this chapter. The surety's liability extends to each such agreement executed

<sup>29</sup> Chapter 19 herein

<sup>30</sup> Chapter 37 herein

<sup>31</sup> Chapter 37 herein

<sup>32</sup> Chapter 69 herein

<sup>33</sup> Chapter 16 herein

<sup>34</sup> Chapter 118 herein

<sup>35</sup> Chapter 118 herein

while the bond is in force and until performance or rescission of the purchase agreement. The aggregate liability of the surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond. To the extent expressly agreed to in writing by the surety, the surety's liability extends to each such agreement subject to this chapter executed prior to the time the bond was in force and until performance or rescission of the agreement. A purchaser aggrieved by a breach of a condition of the bond covering the purchaser's agreement may maintain an action against the bond. If, at the time of the breach, the purchaser is aware of the purchaser's rights under the bond and how to file a claim against the bond, the surety shall not be liable for any breach of condition unless the surety receives notice of a claim within sixty days following discovery of the acts, omissions, or conditions constituting the breach of condition, except as otherwise provided in this section. A surety bond shall not be canceled by a surety except upon a written notice of cancellation given by the surety to the commissioner by restricted certified mail, and not prior to the expiration of sixty days after receipt of the notice by the commissioner. The surety's liability shall extend to each purchase agreement subject to this chapter executed prior to cancellation of the surety bond until the seller has complied with ~~section~~ subsection 3.

Sec. 75. Section 554.9525, subsections 3 and 4, as enacted by 2000 Iowa Acts, chapter 1149, section 96, are amended to read as follows:

~~3.~~ 2. NUMBER OF NAMES. The number of names required to be indexed does not affect the amount of the fee in ~~subsections~~ subsection 1 and 2.

~~4.~~ 3. RESPONSE TO INFORMATION REQUEST. A rule ~~or ordinance~~ adopted pursuant to subsection 1 must set the fee for responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor. A fee for responding to a request communicated in writing must be not less than twice the amount of the fee for responding to a request communicated by another medium authorized by the office of secretary of state or the board of supervisors for the filing office where its filing office is located.

Sec. 76. Section 558.39, unnumbered paragraph 1, Code 2001, as amended by 2001 Iowa Acts, House File 259,<sup>36</sup> is amended to read as follows:

The following forms of acknowledgment shall be sufficient in the cases to which they are respectively applicable. In each case where one of these forms is used, the name of the state and county where the acknowledgment is taken shall precede the body of the certificate, and the signature and official title of the officer shall follow it as indicated in the first form and shall constitute a part of the certificate, and the stamp or seal of the officer shall be attached when necessary under the provision of this chapter and as provided in section ~~9E-6~~ 9E.6A. No certificate of acknowledgment shall be held to be defective on account of the failure to show the official title of the officer making the certificate if such title appears either in the body of such certificate or in connection therewith, or with the signature thereto.

Sec. 77. Section 627.6, subsection 8, paragraph f, subparagraph (3), Code 2001, as amended by 2001 Iowa Acts, House File 654,<sup>37</sup> section 3, if enacted, is amended to read as follows:

(3) For simplified employee pension plans, self-employed pension plans (also known as Keogh plans or H.R. 10 plans), individual retirement accounts established under section 408(a) of the Internal Revenue Code, individual retirement annuities established under section 408(b) of the Internal Revenue Code, savings incentive matched plans for employees, salary reduction simplified employee pension plans (also known as SARSEPs), and similar plans for retirement investments authorized in the future under federal law, the exemption for contributions shall not exceed, for each tax year of contributions, the actual amount of the contribution deducted ~~for individual retirement accounts and annuities established under section 408 of the Internal Revenue Code or the maximum amount which could be contributed and deducted in the tax year of the contribution~~ on the debtor's tax return or

<sup>36</sup> Chapter 38, §7 herein

<sup>37</sup> Chapter 80 herein

the maximum amount which could be contributed to an individual retirement account established under section 408(a) of the Internal Revenue Code and deducted in the tax year of the contribution, whichever is less. The exemption for accumulated earnings and market increases in value of plans under this subparagraph shall be limited to an amount determined by multiplying all the accumulated earnings and market increases in value by a fraction, the numerator of which is the total amount of exempt contributions as determined by this subparagraph, and the denominator of which is the total of exempt and nonexempt contributions to the plan.

Sec. 78. Section 633.4213, subsection 5, Code 2001, is amended to read as follows:

5. A trustee shall prepare and send to the beneficiaries an account of the trust property, liabilities, receipts, and disbursements at least annually, at the termination of the trust, and upon a change of a trustee. An accounting on behalf of a former trustee shall be prepared by the former trustee, or if the trustee's appointment is is terminated by reason of death or incapacity, by the former trustee's personal representative or guardian or conservator.

Sec. 79. Section 702.11, subsection 2, paragraph e, as enacted by 2001 Iowa Acts, Senate File 63,<sup>38</sup> section 1, is amended to read as follows:

e. Child endangerment resulting in bodily injury to a child or a minor in violation of section 726.6, subsection 2A.

Sec. 80. 2001 Iowa Acts, House File 656,<sup>39</sup> section 15, is amended to read as follows:

SEC. 15. Sections ~~103A.3~~, 103A.30, 103A.31, 321.1, 321.47, 321.123, 321.251, 321.284A, 321.457, 321E.28, 321E.31, 331.429, 331.653, 422.43, 422A.1, 425.17, 426A.11, 427.11, 435.22, 441.17, 445.1, 445.36A, 445.37, 445.38, 515C.1, 534.605, 562B.2, 562B.13, 631.1, 631.4, and 648.3, Code 2001, are amended by inserting before the words "mobile home" the words "manufactured or".

Sec. 81. DIRECTION TO CODE EDITOR. In codifying provisions of 2000 Iowa Acts, chapter 1149, in Code Supplement 2001, the Code editor may change references from "this Act" to an appropriate reference, including but not limited to "this Article", wherever it appears in the Act, after consultation with the Iowa state bar association. The Iowa state bar association is requested to respond to the Code editor's consultations by no later than July 31, 2001. Nothing in this section limits the authority of the Code editor under section 2B.13.

Sec. 82. CONTINGENT EFFECTIVENESS. The sections of this division of this Act amending Code section 103A.3 and Code section 103A.26, if enacted, and Code section 322B.2, take effect only if 2001 Iowa Acts, House File 656<sup>40</sup> is enacted.

*Approved May 22, 2001, with exceptions noted.*

THOMAS J. VILSACK, Governor

Dear Secretary Culver:

I hereby transmit House File 755, an Act relating to public expenditure and regulatory matters, making and reducing appropriations, and including effective date and retroactive applicability provisions.

I will, reluctantly, approve this legislation with the exceptions noted. I do so for two reasons. First, I have come to the conclusion that a significantly better bill is unlikely to be approved by the Legislature in the time remaining before fiscal year 2002 begins. Secondly, I believe that by careful use of the item veto, this bill can be somewhat improved through executive action.

<sup>38</sup> Chapter 3 herein

<sup>39</sup> Chapter 153 herein

<sup>40</sup> Chapter 153 herein

House File 755 contains 82 distinct operations making numerous last-minute changes in laws and appropriations considered by the Legislature in the closing hours of the 2001 regular session. The most important of these are sections making reductions to ongoing statutory appropriations, generally known as “standing appropriations.” While much attention is focused on the legislative appropriations subcommittee process for state agency budgets, the fact remains that standing appropriations comprise nearly half of the state general fund budget.

The most critical standing appropriations — both for their financial size and their importance for state policy — are those that support local K-12 schools in our state. This includes the basic funding for local schools provided by the school aid formula, as well as other assistance, such as the class size reduction initiative for Iowa elementary schools, and educational excellence programs supporting local educators. These are critical to efforts to improve our local schools and re-shape our education system.

When declining revenues made it necessary for me to revise my fiscal year 2002 general fund budget, I made a conscious decision not to try to balance the budget on the backs of our local school children. Because the education standing appropriations make up forty percent of the state general fund budget, I determined that it was necessary to use a portion of the state’s reserve funds to ensure that K-12 education had the funding necessary to maintain and build upon vital initiatives that help students learn.

Unfortunately, the Legislature chose instead to make deeper cuts to balance the budget, and made significant reductions to support for public schools. At a time when we are embarking on an historic effort to re-shape our teacher compensation system to ensure student achievement and teacher quality enhancements, I believe it would be counterproductive to reduce other targeted resources for our local schools to the extent this legislation suggests. There are significant reductions in this bill, for example, in the standing appropriations made to Area Education Agencies, the School Technology program, Child Development grants, Accelerated Career Education credits, Educational Excellence programs, the Class Size reduction program, and Transportation for nonpublic students.

The fact remains that this Legislature chose not to act on several of my recommendations that would have provided greater resources for our local schools. As a consequence, it is not possible to restore all of the unwise education cuts that the Legislature approved. Consistent with my responsibility to balance the budget within the expenditure limit in state law, I will be able, at this time, to restore only some of the items that I would under other circumstances. In the future, I will continue to press the Legislature to restore these education budgets to appropriate levels. In the meantime, I will exercise my item veto authority on House File 755 in the following areas.

I disapprove the item designated as Section 7 in its entirety. This would reduce the standing appropriation for the early intervention block grant, popularly known as the class size reduction initiative, by \$10,000,000. This initiative to reduce class sizes and improve reading scores for students in grades K-3 has already demonstrated success across Iowa. It makes no sense to embark on a new, promising initiative focused on student achievement while cutting an existing, promising initiative that helps students achieve and puts more skilled teachers in the classroom. This initiative deserves to be funded at the planned level in the coming year, and will be as a result of this action today.

I disapprove the item designated as Section 10 in its entirety. This would reduce the standing appropriation for nonpublic school transportation by an estimated \$505,000. Besides



providing necessary services for the efficient operation of schools in our state, this would require the department of education to prorate the amount of claims and would be a costly and time consuming exercise. This action is not necessary at this time.

I disapprove the item designated as Section 11 in its entirety. This would reduce by \$2,000,000 the amount appropriated for Phase III moneys under the Educational Excellence program. This initiative provides additional resources for teachers who add value to the regular school program and upgrade their skills. While a review of this program and how it may, over time, be refocused to better coordinate with other teacher quality initiatives may be of value, an arbitrary reduction at this time is not wise.

As I noted previously, it is not possible to restore all of the unwise cuts made by the Legislature in the area of K-12 education. I have carefully considered the reductions in this bill for school technology, at-risk early childhood grants, and the AEAs, and found a good case could be made to restore each of them as well. In the final analysis, however, the Legislature has chosen not to provide the resources necessary to support all of these initiatives.

I am unable to approve Section 34 in its entirety. This section would require the Iowa Finance Authority to use its reserve funds to support mental illness special services. Moody's Rating Service has indicated that the use of reserve funds will adversely impact the Authority's bond rating. A reduced bond rating will result in increased borrowing costs which will increase costs to first time home buyers. It is more appropriate for the Authority to leverage these assets and address Iowa's housing needs through established housing assistance programs.

I am also unable to approve Section 39 and Section 44 of this bill. The effect of these two sections is to totally re-write state law regarding the allocation of resources for textbooks for students at Iowa's nonpublic schools. These changes were added to this bill late in the legislative session, and did not receive adequate discussion or analysis. I am concerned about the unintended consequences of these provisions. I do not believe legislators intended to reduce funding to large public, private, and parochial schools. I do not support that result. I am not persuaded that a compelling case has been made to totally change the law in this way.

Additionally, I am unable to approve Section 42 and Section 48 of this bill. The effect of these two sections is to amend the Code presuming passage of Senate File 514, the property tax limitation bill related to counties. This bill was not passed in the 2001 legislative session, therefore these provisions are not necessary.

I am also unable to approve Section 58 of this bill. This section was designed to resolve a potential conflict between two other bills passed by the Legislature. One of those will not receive my approval, so no conflict will exist and this section of House File 755 is therefore unnecessary.

I hereby approve House File 755, with the exceptions noted.

Sincerely,  
THOMAS J. VILSACK, *Governor*

**CHAPTER 177**

**STUDENT ACHIEVEMENT AND TEACHER QUALITY PROGRAM — APPROPRIATIONS AND ALLOCATIONS**

*H.F. 413*

**AN ACT** making an appropriation for purposes of the student achievement and teacher quality program and providing for contingent effectiveness.

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

Section 1. **STUDENT ACHIEVEMENT AND TEACHER QUALITY.** There is appropriated from the endowment for Iowa’s health account of the tobacco settlement trust fund established in section 12E.12, subsection 1, as amended by 2001 Iowa Acts, Senate File 532,<sup>1</sup> section 15, if enacted, to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of the student achievement and teacher quality program pursuant to chapter 284, as enacted by 2001 Iowa Acts, Senate File 476<sup>2</sup>:

..... \$ 40,000,000

Notwithstanding section 8.33, any moneys remaining unencumbered or unobligated from the appropriation made in this section shall not revert but shall remain available in the succeeding fiscal year for expenditure for the purposes designated. The provisions of section 8.39 shall not apply to the funds appropriated pursuant to this section.

Sec. 2. **SURPLUS FUNDS TRANSFERRED TO THE ENDOWMENT FOR IOWA’S HEALTH ACCOUNT.**

1. Notwithstanding section 8.55, subsection 2, any moneys in excess of the maximum balance in the economic emergency fund after the distribution of the surplus in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2000, shall not be transferred to the general fund of the state but shall be transferred to the endowment for Iowa’s health account of the tobacco settlement trust fund. The amount transferred under this subsection shall not exceed forty million dollars.

2. Notwithstanding section 8.55, subsection 2, any moneys in excess of the maximum balance in the economic emergency fund after the distribution of the surplus in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2001, shall not be transferred to the general fund of the state but shall be transferred to the endowment for Iowa’s health account of the tobacco settlement trust fund. The amount transferred under this subsection shall not exceed the difference between forty million dollars and the amount transferred pursuant to subsection 1.

3. This section is contingent upon the establishment of the endowment for Iowa’s health account of the tobacco settlement trust fund by 2001 Iowa Acts, Senate File 532,<sup>3</sup> if enacted.<sup>4</sup>

Sec. 3. Section 284.4, subsection 2, as enacted by 2001 Iowa Acts, Senate File 476,<sup>5</sup> section 5, is amended to read as follows:

2. By July 1, 2003, each school district shall participate in the student achievement and teacher quality program if the general assembly appropriates moneys for purposes of the student achievement and teacher quality program established pursuant to this chapter.

Sec. 4. Section 284.5, subsection 3, as enacted by 2001 Iowa Acts, Senate File 476,<sup>6</sup> section 6, is amended to read as follows:

3. Notwithstanding subsection 1, a school district may provide a beginning teacher

<sup>1</sup> Chapter 164 herein

<sup>2</sup> Chapter 161 herein

<sup>3</sup> Chapter 164 herein

<sup>4</sup> See chapter 187, §28 herein

<sup>5</sup> Chapter 161 herein

<sup>6</sup> Chapter 161 herein

mentoring and induction program for all classroom teachers who are beginning teachers in the school years beginning July 1, 2001, and July 1, 2002, and notwithstanding section 284.4, subsection 1, a school district is eligible to receive moneys under section 284.13, subsection 1, paragraph "c", for each fiscal year of the fiscal period beginning July 1, 2001, and ending June 30, 2003, to establish a beginning teacher mentoring and induction program in accordance with this section.

Sec. 5. Section 284.7, unnumbered paragraph 1, as enacted by 2001 Iowa Acts, Senate File 476,<sup>7</sup> section 8, is amended to read as follows:

To promote continuous improvement in Iowa's quality teaching workforce and to give Iowa teachers the opportunity for career recognition that reflects the various roles teachers play as educational leaders, an Iowa teacher career path is established for teachers employed by participating school districts. A participating school district shall use funding allocated under section 284.13, subsection 1, paragraph "g", to raise teacher salaries to meet the requirements of this section. The Iowa teacher career path and salary minimums are as follows:

Sec. 6. Section 284.7, as enacted by 2001 Iowa Acts, Senate File 476,<sup>8</sup> section 8, is amended by adding the following new subsection:

**NEW SUBSECTION.** 5. a. For the school year beginning July 1, 2001, and ending June 30, 2002, if the licensed employees of a school district or area education agency receiving funds pursuant to section 284.13, subsection 1, paragraph "g" or "h", for purposes of this section, are organized under chapter 20 for collective bargaining purposes, the board of directors and the certified bargaining representative for the licensed employees shall mutually agree upon a formula for distributing the funds among the teachers employed by the school district or area education agency. However, the school district must comply with the salary minimums provided for in section 284.7. The parties shall follow the negotiation and bargaining procedures specified in chapter 20 except that if the parties reach an impasse, neither impasse procedures agreed to by the parties nor sections 20.20 through 20.22 shall apply and the funds shall be paid as provided in paragraph "b". Negotiations under this section are subject to the scope of negotiations specified in section 20.9. If a board of directors and the certified bargaining representative for licensed employees have not reached mutual agreement by July 15, 2001, for the distribution of funds received pursuant to section 284.13, subsection 1, paragraph "g" or "h", paragraph "b" of this subsection shall apply.

b. If, once the minimum salary requirements of section 284.7 have been met by the school district or area education agency, and the school district or area education agency receiving funds pursuant to section 284.13, subsection 1, paragraph "g" or "h", for purposes of this section, and the certified bargaining representative for the licensed employees have not reached an agreement for distribution of the funds remaining, in accordance with paragraph "a", the board of directors shall divide the funds remaining among full-time teachers employed by the district or area education agency whose regular compensation is equal to or greater than the minimum career teacher salary specified in this section. The payment amount for teachers employed on less than a full-time basis shall be prorated.

c. If the licensed employees of a school district or area education agency are not organized for collective bargaining purposes, the board of directors shall determine the method of distribution of such funds.

Sec. 7. Section 284.9, subsection 2, as enacted by 2001 Iowa Acts, Senate File 476,<sup>9</sup> section 10, is amended to read as follows:

2. The department shall establish up to five regional review panels consisting of five members per panel. Each panel shall include, at a minimum, a nationally board-certified teacher and a school district administrator. Panel members shall be appointed by the director and shall possess the knowledge necessary to determine the quality of the evidence

<sup>7</sup> Chapter 161 herein

<sup>8</sup> Chapter 161 herein

<sup>9</sup> Chapter 161 herein

submitted in an applicant's portfolio. Panel members shall serve a staggered three-year term and may be reappointed to a second term. The department shall provide support and evaluation training for panel members and convene panels as needed. Panel members shall be reimbursed for mileage expenses incurred while engaged in the performance of official duties and shall receive per diem compensation by the department.

Sec. 8. Section 284.10, subsection 3, as enacted by 2001 Iowa Acts, Senate File 476,<sup>10</sup> section 11, is amended to read as follows:

3. Effective until July 1, 2004, a school district shall ~~pay be paid, from moneys allocated pursuant to section 284.13, subsection 1, paragraph "d",~~ the amount of one thousand dollars for each individual who is licensed as a practitioner under chapter 272 on or after July 1, 2001, and who has been certified in accordance with this section. The district shall compensate the practitioner who achieves certification not less than one thousand dollars. By October 1 annually, the school district shall notify the department of education of the number of individuals who have achieved certification in accordance with this section, and shall submit any documentation requested by the department.

Sec. 9. Section 284.11, subsection 2, as enacted by 2001 Iowa Acts, Senate File 476,<sup>11</sup> section 12, is amended to read as follows:

2. All licensed practitioners employed at a participating attendance center that has demonstrated improvement in student achievement shall share in cash awards ~~provided in accordance with this section~~ paid from moneys received by a school district pursuant to section 284.13, subsection 1. The school district is encouraged to extend cash awards to other staff employed at the attendance center.<sup>12</sup>

Sec. 10. Section 284.11, as enacted by 2001 Iowa Acts, Senate File 476,<sup>13</sup> section 12, is amended by adding the following new subsections:

NEW SUBSECTION. 6. The district team-based pay plan shall specify how the funding received by the district for purposes of this section is to be awarded to eligible staff in attendance centers that meet or exceed their goals. The district shall provide all attendance centers equal access to the available funds. Moneys shall be released by the department to the district only upon certification by the school board that an attendance center has met or exceeded its goals.

NEW SUBSECTION. 7. Moneys received for purposes of this section shall not be used for payment of any collective bargaining agreement or arbitrator's decision negotiated or awarded under chapter 20.

Sec. 11. Section 284.12, subsection 3, as enacted by 2001 Iowa Acts, Senate File 476,<sup>14</sup> section 13, is amended to read as follows:

3. ~~The~~ Subject to an appropriation of sufficient funds by the general assembly, the department shall provide for a comprehensive independent evaluation of all components of the student achievement and teacher quality program and shall submit the results of the evaluation in the report submitted pursuant to subsection 2 by January 1, 2007.

Sec. 12. NEW SECTION. 284.13 STATE PROGRAM ALLOCATION.

1. For each fiscal year in which moneys are appropriated by the general assembly for purposes of the student achievement and teacher quality program, the moneys shall be allocated as follows in the following priority order:

a. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the department shall reserve up to one million dollars of any moneys appropriated for purposes of this chapter. For each fiscal year in which moneys are appropriated by the general assembly for purposes of team-based variable pay pursuant to section 284.11, the amount of moneys allocated to school districts shall be in the proportion that the basic enrollment of a school

<sup>10</sup> Chapter 161 herein

<sup>11</sup> Chapter 161 herein

<sup>12</sup> According to enrolled Act; but see chapter 161, §12 herein

<sup>13</sup> Chapter 161 herein

<sup>14</sup> Chapter 161 herein

district bears to the sum of the basic enrollments of all participating school districts for the budget year. However, the per pupil amount distributed to a school district under the pilot program shall not exceed one hundred dollars.

b. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, to the department of education, the amount of one million nine hundred thousand dollars for the issuance of national board certification awards in accordance with section 256.44.

c. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, an amount up to two million four hundred thousand dollars for first-year beginning teachers, and for the fiscal year beginning July 1, 2002, and succeeding fiscal years, an amount up to four million seven hundred thousand dollars for first-year and second-year beginning teachers, to the department of education for distribution to school districts for purposes of the beginning teacher mentoring and induction programs. A school district shall receive one thousand three hundred dollars per beginning teacher participating in the program. If the funds appropriated for the program are insufficient to pay mentors and school districts as provided in this paragraph, the department shall prorate the amount distributed to school districts based upon the amount appropriated. Moneys received by a school district pursuant to this paragraph shall be expended to provide each mentor with an award of five hundred dollars per semester, at a minimum, for participation in the school district's beginning teacher mentoring and induction program; to implement the plan; and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system or a pension and annuity retirement system established under chapter 294, for such amounts paid by the district.

d. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, up to one million five hundred thousand dollars to the department of education for purposes of establishing the evaluator training program, including but not limited to the development of criteria models; an evaluation process; the training of providers; development of a provider approval process; training materials and costs; for payment to practitioners under section 284.10, subsection 3, and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees' retirement system or a pension and annuity retirement system established under chapter 294, for such amounts paid by the district; and for subsidies to school districts for training costs. A portion of the funds allocated to the department for purposes of this paragraph may be used by the department for administrative purposes.

e. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, up to one million five hundred thousand dollars to the department of education for purposes of implementing the career development program requirements of section 284.6, and the review panel requirements of section 284.9. A portion of the funds allocated to the department for purposes of this paragraph may be used by the department for administrative purposes.

f. For each fiscal year in the fiscal period beginning July 1, 2001, and ending June 30, 2003, up to five hundred thousand dollars to the board of educational examiners for the fees and costs incurred in administering the Praxis II examination in accordance with section 272.2.

g. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the amount of moneys remaining from funds appropriated for purposes of this chapter after distribution as provided in paragraphs "a" through "f" and "h" shall be allocated to school districts in accordance with the following formula:

(1) Fifty percent of the allocation shall be in the proportion that the basic enrollment of a school district bears to the sum of the basic enrollments of all school districts in the state for the budget year.

(2) Fifty percent of the allocation shall be based upon the proportion that the number of full-time equivalent teachers employed by a school district bears to the sum of the number of full-time equivalent teachers who are employed by all school districts in the state for the base year.

h. From moneys available under paragraph "g", the department shall allocate to area education agencies an amount per classroom teacher employed by an area education agency that is approximately equivalent to the average per teacher amount allocated to the districts. The average per teacher amount shall be calculated by dividing the total number of classroom teachers employed by school districts and the classroom teachers employed by area education agencies into the total amount of moneys available under paragraph "g".

2. A school district that is unable to meet the provisions of section 284.7, subsection 1, with funds allocated pursuant to subsection 1, paragraph "g", may request a waiver from the department to use funds appropriated under chapter 256D to meet the provisions of section 284.7, subsection 1, if the difference between the funds allocated to the school district pursuant to subsection 1, paragraph "g", and the amount required to comply with section 284.7, subsection 1, is not less than ten thousand dollars. The department shall consider the average class size of the school district, the school district's actual unspent balance from the preceding year, and the school district's current financial position.

3. If a school district does not choose to participate in the student achievement and teacher quality program during the school year beginning July 1, 2001, the amount of moneys to be allocated to the school district pursuant to subsection 1, paragraph "g", shall be held for the school district by the department until June 30, 2003, or until the school district participates in the program, whichever occurs earlier. Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2002, shall not revert but shall be available for expenditure for the following fiscal year for the purposes of this chapter.

4. Moneys received by a school district under this chapter are miscellaneous income for purposes of chapter 257 or are considered encumbered. A school district shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this section.

Sec. 13. Section 272.2, subsection 17, paragraph b, as enacted by 2001 Iowa Acts, Senate File 476,<sup>15</sup> section 16, is amended to read as follows:

b. Examination fees for the examination required under this subsection shall be paid by from moneys appropriated to the board for this purpose. Costs incurred for additional content area examinations shall be paid by the applicant.

Sec. 14. 2001 Iowa Acts, Senate File 476,<sup>16</sup> section 23, unnumbered paragraph 1, if enacted, is amended to read as follows:

LEGISLATIVE EDUCATION ACCOUNTABILITY AND OVERSIGHT COMMITTEE. The legislative council is requested to establish a two-year legislative education accountability and oversight committee to conduct a comprehensive study of team-based variable pay and make recommendations for the implementation of a team-based variable pay plan component of the student achievement and teacher quality program. The legislative council is also requested to authorize up to \$75,000 for the expenses of the committee.

Sec. 15. CONTINGENT EFFECTIVENESS. This Act shall take effect only if 2001 Iowa Acts, Senate File 476<sup>17</sup> is enacted.

Approved May 23, 2001

<sup>15</sup> Chapter 161 herein

<sup>16</sup> Chapter 161 herein

<sup>17</sup> Chapter 161 herein

**CHAPTER 178**

**FEDERAL BLOCK GRANT APPROPRIATIONS**

S.F. 525

**AN ACT** appropriating federal funds made available from federal block grants and other federal grants, allocating portions of federal block grants, and providing procedures if federal funds are more or less than anticipated or if federal block grants are more or less than anticipated.

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

**Section 1. SUBSTANCE ABUSE APPROPRIATION.**

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the following amount:

..... \$ 12,698,390

a. Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, subchapter XVII, which provides for the substance abuse prevention and treatment block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

b. Of the funds appropriated in this subsection, an amount not exceeding 5 percent shall be used by the department for administrative expenses.

c. The department shall expend no less than an amount equal to the amount expended for treatment services in the state fiscal year beginning July 1, 2000, for pregnant women and women with dependent children.

d. Of the funds appropriated in this subsection, an amount not exceeding \$24,585 shall be used for audits.

2. The funds remaining from the appropriation made in subsection 1 shall be allocated as follows:

a. At least 20 percent of the allocation shall be for prevention programs.

b. At least 35 percent of the allocation shall be spent on drug treatment and prevention activities.

c. At least 35 percent of the allocation shall be spent on alcohol treatment and prevention activities.

3. The substance abuse block grant funds received from the federal government in excess of the amount of the anticipated federal fiscal year 2001-2002 award appropriated in subsection 1 shall be distributed at least 50 percent to treatment programs and 50 percent to prevention programs except that, based upon federal guidelines, the total amount of the excess awarded to prevention programs shall not exceed \$1,000,000.

**Sec. 2. COMMUNITY MENTAL HEALTH SERVICES APPROPRIATION.**

1. a. There is appropriated from the fund created by section 8.41 to the Iowa department of human services for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the following amount:

..... \$ 2,740,750

b. Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, subchapter XVII, which provides for the community mental health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

c. The administrator of the division of mental health and developmental disabilities of the department of human services shall allocate not less than 95 percent of the amount of the block grant to eligible community mental health services providers for carrying out the

plan submitted to and approved by the federal substance abuse and mental health services administration for the fiscal year involved.

2. An amount not exceeding 5 percent of the funds appropriated in subsection 1 shall be used by the department of human services for administrative expenses. From the funds set aside by this subsection for administrative expenses, the division of mental health and developmental disabilities shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the division of mental health and developmental disabilities for the costs of the audits.

Sec. 3. MATERNAL AND CHILD HEALTH SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the following amount:

..... \$ 7,022,990

The funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 7, subchapter V, which provides for the maternal and child health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding \$45,700 shall be used for audits.

Funds appropriated in this subsection shall not be used by the university of Iowa hospitals and clinics for indirect costs.

2. An amount not exceeding \$150,000 of the funds appropriated in subsection 1 to the Iowa department of public health shall be used by the Iowa department of public health for administrative expenses in addition to the amount to be used for audits in subsection 1.

The departments of public health, human services, and education and the university of Iowa's mobile and regional child health specialty clinics shall continue to pursue to the maximum extent feasible the coordination and integration of services to women and children.

3. a. Sixty-three percent of the remaining funds appropriated in subsection 1 shall be allocated to supplement appropriations for maternal and child health programs within the Iowa department of public health. Of these funds, \$284,548 shall be set aside for the statewide perinatal care program.

b. Thirty-seven percent of the remaining funds appropriated in subsection 1 shall be allocated to the university of Iowa hospitals and clinics under the control of the state board of regents for mobile and regional child health specialty clinics. The university of Iowa hospitals and clinics shall not receive an allocation for indirect costs from the funds for this program. Priority shall be given to establishment and maintenance of a statewide system of mobile and regional child health specialty clinics.

4. The Iowa department of public health shall administer the statewide maternal and child health program and the crippled children's program by conducting mobile and regional child health specialty clinics and conducting other activities to improve the health of low-income women and children and to promote the welfare of children with actual or potential handicapping conditions and chronic illnesses in accordance with the requirements of Title V of the federal Social Security Act.

Sec. 4. PREVENTIVE HEALTH AND HEALTH SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the following amount:

..... \$ 1,941,706

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 6A, sub-



chapter XVII, which provides for the preventive health and health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding \$5,522 shall be used for audits.

2. Of the funds appropriated in subsection 1, the specific amount of funds stipulated by the notice of the block grant award shall be allocated for services to victims of sex offenses and for rape prevention education.

3. After deducting the funds allocated in subsections 1 and 2, an amount not exceeding \$94,670 of the remaining funds appropriated in subsection 1 shall be used by the Iowa department of public health for administrative expenses in addition to the amount to be used for audits in subsection 1.

4. After deducting the funds allocated in subsections 1, 2, and 3, the remaining funds appropriated in subsection 1 shall be used by the department for healthy people 2010/healthy Iowans 2010 program objectives, preventive health advisory committee, and risk reduction services, including nutrition programs, health incentive programs, chronic disease services, emergency medical services, monitoring of the fluoridation program and start-up fluoridation grants, and acquired immune deficiency syndrome services. The moneys specified in this subsection shall not be used by the university of Iowa hospitals and clinics or by the state hygienic laboratory for the funding of indirect costs. Of the funds used by the department under this subsection, an amount not exceeding \$90,000 shall be used for the monitoring of the fluoridation program and for start-up fluoridation grants to public water systems, and an amount not exceeding \$50,000 shall be used to provide chlamydia testing.

Sec. 5. DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the office of the governor for the drug policy coordinator for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the following amount:

..... \$ 5,658,361

Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated fiscal year under 42 U.S.C., chapter 46, subchapter V, which provides for the drug control and system improvement grant program. The drug policy coordinator shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding 10 percent of the funds appropriated in subsection 1 shall be used by the drug policy coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the drug policy coordinator shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1.

Sec. 6. STOP VIOLENCE AGAINST WOMEN GRANT PROGRAM APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the office of the governor for the drug policy coordinator for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the following amount:

..... \$ 1,592,000

Funds appropriated in this subsection are the anticipated funds to be received from the federal government for the designated fiscal year under 42 U.S.C., chapter 46, subchapter XII-H, which provides for grants to combat violent crimes against women. The drug policy coordinator shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding 5 percent of the funds appropriated in subsection 1 shall be used by the drug policy coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the drug policy coordinator shall pay to the

auditor of the state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1.

Sec. 7. LOCAL LAW ENFORCEMENT BLOCK GRANT APPROPRIATION.

1. There is appropriated from the fund created in section 8.41 to the office of the governor for the drug policy coordinator for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the following amount:

..... \$ 299,867

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under annual federal appropriations which provide for grants to reduce crime and improve public safety. The drug policy coordinator shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding 3 percent of the funds appropriated in subsection 1 shall be used by the drug policy coordinator for administrative expenses. From the funds set aside by this subsection for administrative expenses, the drug policy coordinator shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1.

Sec. 8. RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS FORMULA GRANT PROGRAM. There is appropriated from the fund created in section 8.41 to the office of the governor for the drug policy coordinator for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the following amount:

..... \$ 501,966

Funds appropriated in this section are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 136, which provides grants for substance abuse treatment programs in state and local correctional facilities. The drug policy coordinator shall expend the funds appropriated in this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 9. COMMUNITY SERVICES APPROPRIATIONS.

1. a. There is appropriated from the fund created by section 8.41 to the division of community action agencies of the department of human rights for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the following amount:

..... \$ 6,454,776

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 106, which provides for the community services block grant. The division of community action agencies of the department of human rights shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

b. The administrator of the division of community action agencies of the department of human rights shall allocate not less than 96 percent of the amount of the block grant to eligible community action agencies for programs benefiting low-income persons. Each eligible agency shall receive a minimum allocation of not less than \$100,000. The minimum allocation shall be achieved by redistributing increased funds from agencies experiencing a greater share of available funds. The funds shall be distributed on the basis of the poverty-level population in the area represented by the community action areas compared to the size of the poverty-level population in the state.

2. An amount not exceeding 4 percent of the funds appropriated in subsection 1 shall be used by the division of community action agencies of the department of human rights for administrative expenses. From the funds set aside by this subsection for administrative expenses, the division of community action agencies of the department of human rights shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and

administration of the state’s portion of the funds appropriated in subsection 1. The auditor of state shall bill the division of community action agencies for the costs of the audits.

Sec. 10. COMMUNITY DEVELOPMENT APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of economic development for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the following amount:

..... \$ 31,306,000

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 69, which provides for community development block grants. The department of economic development shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding \$1,452,240 for the federal fiscal year beginning October 1, 2001, shall be used by the department of economic development for administrative expenses for the community development block grant. The total amount used for administrative expenses includes \$726,120 for the federal fiscal year beginning October 1, 2001, of funds appropriated in subsection 1 and a matching contribution from the state equal to \$726,120 from the appropriation of state funds for the community development block grant and state appropriations for related activities of the department of economic development. From the funds set aside for administrative expenses by this subsection, the department of economic development shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state’s portion of the funds appropriated in subsection 1. The auditor of state shall bill the department for the costs of the audit.

Sec. 11. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the division of community action agencies of the department of human rights for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the following amount:

..... \$ 25,541,963

The funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 94, subchapter II, which provides for the low-income home energy assistance block grants. The division of community action agencies of the department of human rights shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Up to 15 percent of the amount appropriated in this section that is actually received shall be used for residential weatherization or other related home repairs for low-income households. Of this allocation amount, not more than 10 percent may be used for administrative expenses. In order to receive low-income home energy assistance program funding, the head of an eligible household must be willing to allow residential weatherization or other related home repairs. However, if the eligible household is located in rental property, the unwillingness of the property owner to allow residential weatherization or other related home repairs shall not prevent the eligible household from receiving low-income home energy assistance program funding.

3. After subtracting the allocation in subsection 2, up to \$2,663,921 is allocated for administrative expenses of the low-income home energy assistance program of which \$290,000 is allocated for administrative expenses of the division. The costs of auditing the use and administration of the portion of the appropriation in this section that is retained by the state shall be paid from the amount allocated in this subsection to the division. The auditor of state shall bill the division for the audit costs.

4. The remainder of the appropriation in this section following the allocations made in subsections 2 and 3, shall be used to help eligible households as defined in 42 U.S.C., chapter 94, subchapter II, to meet home energy costs.

5. Not more than 10 percent of the amount appropriated in this section that is actually received, may be carried forward for use in the succeeding federal fiscal year.

6. Expenditures for assessment and resolution of energy problems shall be limited to 5 percent of the amount appropriated in this section that is actually received.

**Sec. 12. SOCIAL SERVICES APPROPRIATIONS.**

1. There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the following amount:

.....	\$	18,531,000
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Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., chapter 7, subchapter XX, which provides for the social services block grant. The department of human services shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Not more than \$1,178,341 of the funds appropriated in subsection 1 shall be used by the department of human services for general administration. From the funds set aside in this subsection for general administration, the department of human services shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1.

3. In addition to the allocation for general administration in subsection 2, the remaining funds appropriated in subsection 1 shall be allocated in the following amounts to supplement appropriations for the federal fiscal year beginning October 1, 2001, for the following programs within the department of human services:

a. Field operations:	\$	7,047,791
.....		
b. Child and family services:	\$	1,054,155
.....		
c. Local administrative costs and other local services:	\$	747,438
.....		
d. Volunteers:	\$	81,688
.....		
e. Community-based services:	\$	93,940
.....		
f. MH/MR/DD/BI community service (local purchase):	\$	8,327,647
.....		

**Sec. 13. SOCIAL SERVICES BLOCK GRANT PLAN.** The department of human services during each state fiscal year shall develop a plan for the use of federal social services block grant funds for the subsequent state fiscal year.

The proposed plan shall include all programs and services at the state level which the department proposes to fund with federal social services block grant funds, and shall identify state and other funds which the department proposes to use to fund the state programs and services.

The proposed plan shall also include all local programs and services which are eligible to be funded with federal social services block grant funds, the total amount of federal social services block grant funds available for the local programs and services, and the manner of distribution of the federal social services block grant funds to the counties. The proposed plan shall identify state and local funds which will be used to fund the local programs and services.

The proposed plan shall be submitted with the department's budget requests to the governor and the general assembly.

**Sec. 14. PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS.** Upon receipt of the minimum formula grant from the federal alcohol,

drug abuse, and mental health administration to provide mental health services for the homeless, for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the division of mental health and developmental disabilities of the department of human services shall assure that a project which receives funds under the formula grant from either the federal or local match share of 25 percent in order to provide outreach services to persons who are chronically mentally ill and homeless or who are subject to a significant probability of becoming homeless shall do all of the following:

1. Provide community mental health services, diagnostic services, crisis intervention services, and habilitation and rehabilitation services.
2. Refer clients to medical facilities for necessary hospital services, and to entities that provide primary health services and substance abuse services.
3. Provide appropriate training to persons who provide services to persons targeted by the grant.
4. Provide case management to homeless persons.
5. Provide supportive and supervisory services to certain homeless persons living in residential settings which are not otherwise supported.
6. Projects may expend funds for housing services including minor renovation, expansion and repair of housing, security deposits, planning of housing, technical assistance in applying for housing, improving the coordination of housing services, the costs associated with matching eligible homeless individuals with appropriate housing, and one-time rental payments to prevent eviction.
7. 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 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 the effective date of this subsection. 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. 15. CHILD CARE AND DEVELOPMENT APPROPRIATION. There is appropriated from the fund created by section 8.41 to the department of human services for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, the following amount:

..... \$ 39,478,642

Funds appropriated in this section are the funds anticipated to be received from the federal government under 42 U.S.C., chapter 105, subchapter II-B, which provides for the child care and development block grant. The department shall expend the funds appropriated in this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 16. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. If the funds received from the federal government for the block grants specified in this Act are less than the amounts appropriated, the funds actually received shall be prorated by the governor for the various programs, other than for the services to victims of sex offenses and for rape prevention education under section 4, subsection 2, of this Act, for which each block grant is available according to the percentages that each program is to receive as specified in this Act. However, if the governor determines that the funds allocated by the percentages will not be sufficient to effect the purposes of a particular program, or if the appropriation is not allocated by percentage, the governor may allocate the funds in a manner which will effect to the greatest extent possible the purposes of the various programs for which the block grants are available.

2. Before the governor implements the actions provided for in subsection 1, the following procedures shall be taken:

a. The chairpersons and ranking members of the senate and house standing committees on appropriations, the appropriate chairpersons and ranking members of subcommittees of those committees, the director of the legislative service bureau, and the director of the legislative fiscal bureau shall be notified of the proposed action.

b. The notice shall include the proposed allocations, and information on the reasons why particular percentages or amounts of funds are allocated to the individual programs, the departments and programs affected, and other information deemed useful. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

3. If the amount of moneys received from the federal government for a specific grant number specified in this Act is less than the amount appropriated, the amount appropriated shall be reduced accordingly. An annual report listing any such appropriation reduction shall be submitted to the fiscal committee of the legislative council.

Sec. 17. PROCEDURE FOR INCREASED FEDERAL FUNDS.

1. If funds received from the federal government in the form of block grants exceed the amounts appropriated in sections 1, 2, 3, 4, 5, 7, 10, and 12 of this Act, the excess shall be prorated to the appropriate programs according to the percentages specified in those sections, except additional funds shall not be prorated for administrative expenses.

2. If actual funds received from the federal government from block grants exceed the amount appropriated in section 11 of this Act for the low-income home energy assistance program, not more than 15 percent of the excess may be allocated to the low-income residential weatherization program and not more than 5 percent of the excess may be used for administrative costs.

3. If funds received from the federal government from community services block grants exceed the amount appropriated in section 9 of this Act, 100 percent of the excess is allocated to the community services block grant program.

4. If the amount of moneys received from the federal government for a specific grant number specified in this Act exceeds the amount appropriated, the excess amount is appropriated for the purpose designated in the specific grant's appropriation. An annual report listing any such excess appropriations shall be submitted to the fiscal committee of the legislative council.

Sec. 18. PROCEDURE FOR EXPENDITURE OF ADDITIONAL FEDERAL FUNDS. If other federal grants, receipts, and funds and other nonstate grants, receipts, and funds become available or are awarded which are not available or awarded during the period in which the general assembly is in session, but which require expenditure by the applicable department or agency prior to March 15 of the fiscal year beginning July 1, 2001, and ending June 30, 2002, these grants, receipts, and funds are appropriated to the extent necessary, provided that the fiscal committee of the legislative council is notified within thirty days of receipt of the grants, receipts, or funds and the fiscal committee of the legislative council has an opportunity to comment on the expenditure of the grants, receipts, or funds.

Sec. 19. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of agriculture and land stewardship for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

- 1. For plant and animal disease and pest control, grant number 10025:  
..... \$ 3,957,526

2. For assistance for intrastate meat and poultry, grant number 10475:		
.....	\$	1,193,644
3. For food and drug — research grants, grant number 13103:		
.....	\$	95,540
4. For surface coal mining regulation, grant number 15250:		
.....	\$	120,502
5. For abandoned mine land reclamation, grant number 15252:		
.....	\$	1,664,317
6. For wetlands protection, grant number 66461:		
.....	\$	98,700
7. For USDA, grant number 10000:		
.....	\$	71,866
8. For farmers market nutrition program, grant number 10572:		
.....	\$	639,078
9. For performance partnership grants — pesticide use, grant number 66605:		
.....	\$	1,173,931
10. For air quality, grant number 66606:		
.....	\$	145,000
11. For marketing improvement, grant number 10156:		
.....	\$	55,000
12. For gypsy moth forestry, grant number 10664:		
.....	\$	10,000

Sec. 20. OFFICE OF AUDITOR OF STATE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the office of auditor of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 21. DEPARTMENT FOR THE BLIND. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department for the blind for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department for the blind for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For vocational rehabilitation, grant number 93802:		
.....	\$	568,460
2. For assistive technology information network, grant number 84224:		
.....	\$	2,000
3. For rehabilitation services — basic support, grant number 84126:		
.....	\$	5,474,388
4. For rehabilitation training, grant number 84265:		
.....	\$	20,470
5. For independent living project, grant number 84169:		
.....	\$	60,354
6. For older blind, grant number 84177:		
.....	\$	216,373
7. For supported employment, grant number 84187:		
.....	\$	68,254
8. For field research, grant number 84133:		
.....	\$	149,997

Sec. 22. IOWA STATE CIVIL RIGHTS COMMISSION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the Iowa

state civil rights commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the Iowa state civil rights commission for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For housing and urban development (HUD) discrimination complaints, grant number 14401:

..... \$ 231,200

2. For job discrimination — special projects, grant number 30002:

..... \$ 743,900

Sec. 23. COLLEGE STUDENT AID COMMISSION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the college student aid commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the college student aid commission for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For the Stafford loan program, grant number 84032:

..... \$ 14,783,185

2. For LEAP, grant number 84069:

..... \$ 903,034

Sec. 24. DEPARTMENT OF COMMERCE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of commerce for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 25. DEPARTMENT OF CORRECTIONS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of corrections for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

The following amounts are appropriated to the department of corrections for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For violent offender incarceration/truth in sentencing, grant number 16586:

..... \$ 3,797,373

2. For criminal alien assistance, grant number 16572:

..... \$ 761,909

3. For incarcerated youth, grant number 84331:

..... \$ 98,000

Sec. 26. DEPARTMENT OF CULTURAL AFFAIRS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of cultural affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of cultural affairs for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For historic preservation grants-in-aid, grant number 15904:

..... \$ 537,595

2. For national endowment for the arts (NEA) partner, grant number 45025:

..... \$ 475,700

3. For NEA leaders, grant number 45015:

..... \$ 45,000



Sec. 27. DEPARTMENT OF ECONOMIC DEVELOPMENT. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of economic development for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of economic development for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For department of agriculture, grant number 10000:	\$	114,600
2. For national Affordable Housing Act, grant number 14239:	\$	11,331,000
3. For Community Service Act funds, grant number 94003:	\$	2,697,321
4. For job opportunities and basic skills program, grant number 13781:	\$	99,648
5. For national corporation for community service, grant number 94006:	\$	50,000
6. For shelter grants, grant number 14231:	\$	1,319,000

Sec. 28. DEPARTMENT OF EDUCATION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of education for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For school breakfast program, grant number 10553:	\$	9,060,300
2. For school lunch program, grant number 10555:	\$	48,321,600
3. For special milk program for children, grant number 10556:	\$	151,500
4. For child care food program, grant number 10558:	\$	15,812,334
5. For summer food service for children, grant number 10559:	\$	757,500
6. For administration expenses for child nutrition, grant number 10560:	\$	1,290,964
7. For public telecommunication facilities, grant number 11550:	\$	250,000
8. For vocational rehabilitation — state supplementary assistance, grant number 13625:	\$	596,910
9. For vocational rehabilitation — FICA, grant number 13802:	\$	12,451,785
10. For nutrition education and training, grant number 10564:	\$	242,477
11. For mine health and safety, grant number 17600:	\$	74,336
12. For veterans education, grant number 64111:	\$	225,269
13. For adult education, grant number 84002:	\$	3,700,000
14. For bilingual education, grant number 84194:	\$	100,000

15. For federal Elementary and Secondary Education Act (ESEA) Title I — chapter 1, grant number 84010:	\$	54,273,317
16. For migrant education, grant number 84011:	\$	663,737
17. For education for neglected — delinquent children, grant number 84013:	\$	256,000
18. For handicapped education, grant number 84025:	\$	96,138
19. For handicapped — state grants, grant number 84027:	\$	55,326,009
20. For technology literacy challenge, grant number 84318:	\$	85,683
21. For library services and technology, grant number 45310:	\$	1,621,606
22. For vocational education — state grants, grant number 84048:	\$	12,434,554
23. For rehabilitation services — basic support, grant number 84126:	\$	21,948,569
24. For rehabilitation training, grant number 84129:	\$	67,660
25. For federal Elementary and Secondary Education Act (ESEA) Title II, grant number 84281:	\$	2,750,000
26. For emergency immigrant education, grant number 84162:	\$	626,000
27. For independent living project, grant number 84169:	\$	238,065
28. For education of handicapped — incentive, grant number 84173:	\$	4,077,008
29. For education of handicapped — infants and toddlers, grant number 84181:	\$	3,315,411
30. For Byrd scholarship program, grant number 84185:	\$	432,000
31. For drug-free schools/communities, grant number 84186:	\$	2,776,278
32. For supported employment, grant number 84187:	\$	293,642
33. For homeless youth and children, grant number 84196:	\$	168,600
34. For even start, grant number 84213:	\$	931,500
35. For federal Elementary and Secondary Education Act (ESEA) capital expense, grant number 84216:	\$	222,288
36. For AIDS prevention project, grant number 93938:	\$	230,000
37. For headstart collaborative grant, grant number 93600:	\$	100,000
38. For infrastructure under the Iowa demonstration construction grant program and character education, grant number 84215:	\$	10,000,000
39. For teacher preparation education, grant number 84243:	\$	1,245,235

40. For learn and serve America, grant number 94004:	\$	181,634
41. For star schools grant, grant number 84203:	\$	1,851,000
42. For federal Elementary and Secondary Education Act (ESEA) Title VI, grant number 84298:	\$	3,670,941
43. For school-to-work, grant number 17249:	\$	38,958
44. For state program improvement, grant number 84323:	\$	882,825
45. For school reform, grant number 84332:	\$	1,055,479
46. For reading excellence, grant number 84338:	\$	2,961,969
47. For class size reduction, grant number 84340:	\$	10,000,000
48. For system change, grant number 84989:	\$	499,704
49. For refugee schools, grant number 93576:	\$	250,000
50. For United States department of education task orders, grant number 84999:	\$	40,000
51. For career resource network, grant number 84346:	\$	144,475
52. For advanced placement, grant number 84330:	\$	18,450

Sec. 29. DEPARTMENT OF ELDER AFFAIRS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of elder affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of elder affairs for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For nutrition program for elderly, grant number 10570:	\$	2,125,789
2. For senior community service employment program, grant number 17235:	\$	1,129,322
3. For preventive health, grant number 93043:	\$	232,560
4. For supportive services, grant number 93044:	\$	4,403,898
5. For nutrition, grant number 93045:	\$	6,591,658
6. For health care financing administration, grant number 93779:	\$	275,082
7. For elder abuse, grant number 93041:	\$	55,927
8. For ombudsman program, grant number 93042:	\$	108,953
9. For Title IV aging programs, grant number 93048:	\$	630,054

Sec. 30. ETHICS AND CAMPAIGN DISCLOSURE BOARD. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the Iowa ethics and campaign disclosure board for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 31. DEPARTMENT OF GENERAL SERVICES. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of general services for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 32. OFFICES OF THE GOVERNOR AND LIEUTENANT GOVERNOR. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the offices of the governor and lieutenant governor for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 33. GOVERNOR — DRUG POLICY COORDINATOR. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the office of the governor for the drug policy coordinator for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the office of the governor for the drug policy coordinator for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For bullet proof vest partnership program, grant number 16607:  
 ..... \$ 25,000
2. For rural domestic violence and child victimization assistance, grant number 16589:  
 ..... \$ 640,000

Sec. 34. DEPARTMENT OF HUMAN RIGHTS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of human rights for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of human rights for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For juvenile justice and delinquency prevention, grant number 16540:  
 ..... \$ 860,665
2. For weatherization assistance, grant number 81042:  
 ..... \$ 2,905,255
3. For client assistance, grant number 84161:  
 ..... \$ 118,719
4. For Title V, delinquency prevention, grant number 16546:<sup>1</sup>  
 ..... \$ 425,000
5. For juvenile accountability incentive block grant, grant number 16523:  
 ..... \$ 2,895,700

Sec. 35. DEPARTMENT OF HUMAN SERVICES. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of human services, for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are

<sup>1</sup> Grant number "16548" probably intended

appropriated to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For food stamps, grant number 10551:	\$	2,025,000
2. For administration expense for food stamps, grant number 10561:	\$	14,208,189
3. For commodity support food program, grant number 10565:	\$	309,557
4. For temporary emergency food assistance, grant number 10568:	\$	332,440
5. For Title XVIII Medicare inspections, grant number 13773:	\$	100,000
6. For foster grandparents program, grant number 72001:	\$	314,115
7. For mental health training, grant number 93244:	\$	706,365
8. For child support enforcement, grant number 93563:	\$	34,382,573
9. For refugee and entrant assistance, grant number 93566:	\$	2,887,791
10. For developmental disabilities basic support, grant number 93630:	\$	849,788
11. For children's justice, grant number 93643:	\$	116,474
12. For child welfare services, grant number 93645:	\$	3,222,881
13. For foster care Title IV-E, grant number 93658:	\$	32,992,311
14. For Title IV-E adoption assistance, grant number 93659:	\$	23,121,384
15. For child abuse challenge, grant number 93672:	\$	227,725
16. For Title IV-E independent living, grant number 93674:	\$	1,012,105
17. For sexually transmitted disease control program, grant number 93777:	\$	2,822,047
18. For medical assistance, grant number 93778:	\$	1,188,014,507
19. For empowerment, grant number 93585:	\$	1,844,311
20. For promoting safe and stable families, grant number 93556:	\$	1,768,231
21. For welfare reform research evaluation, grant number 93595:	\$	80,000
22. For welfare reform, grant number 93239:	\$	108,160
23. For state children's health insurance program, grant number 93767:	\$	37,022,630
24. For children with disabilities, grant number 93631:	\$	70,000
25. For child care safety and health, grant number 93577:	\$	2,176,000
26. For jobs training, grant number 93561:	\$	81,850

Sec. 36. INFORMATION TECHNOLOGY DEPARTMENT. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the information technology department for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 37. DEPARTMENT OF INSPECTIONS AND APPEALS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of inspections and appeals for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of inspections and appeals for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For assistance for intrastate meat and poultry, grant number 10475:	\$	19,182
.....		
2. For food and drug research grants, grant number 13103:	\$	22,519
.....		
3. For Title XVIII Medicare inspections, grant number 13773:	\$	2,133,765
.....		
4. For state medicaid fraud control unit, grant number 13775:	\$	18,814
.....		
5. For state medicaid fraud control, grant number 93775:	\$	540,357
.....		

Sec. 38. JUDICIAL BRANCH. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the judicial branch for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amount is appropriated to the judicial branch for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

For United States department of health and human services, grant number 13000:	\$	150,000
.....		

Sec. 39. DEPARTMENT OF JUSTICE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of justice for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of justice for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For United States department of justice, grant number 16000:	\$	5,110,903
.....		
2. For United States department of health and human services, grant number 13000:	\$	709,072
.....		

Sec. 40. IOWA LAW ENFORCEMENT ACADEMY. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the Iowa law enforcement academy for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amount is appropriated to the Iowa law enforcement academy for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

For national institute of justice, grant number 16560:	\$	417,217
.....		

Sec. 41. DEPARTMENT OF MANAGEMENT. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of management for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 42. DEPARTMENT OF NATURAL RESOURCES. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of natural resources for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of natural resources for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For forestry incentive program, grant number 10064:	\$	416,000
2. For cooperative forestry assistance, grant number 10664:	\$	513,000
3. For fish restoration, grant number 15605:	\$	5,775,508
4. For wildlife restoration, grant number 15611:	\$	2,800,000
5. For acquisition, development, and planning, grant number 15916:	\$	672,235
6. For recreational boating safety financial assistance, grant number 20005:	\$	1,045,000
7. For consolidated environmental programs support, grant number 66600:	\$	12,173,135
8. For energy conservation, grant number 81041:	\$	1,975,222
9. For Title VI revolving loan fund, grant number 66458:	\$	2,267,007
10. For disaster assistance, grant number 83516:	\$	1
11. For United States geological survey, soil conservation service, mapping projects, grant number 15808:	\$	96,120
12. For rare and endangered species, grant number 15612:	\$	67,000
13. For highway construction, grant number 20205:	\$	395,821
14. For fish and wildlife watershed, grant number 10904:	\$	200,000

Sec. 43. BOARD OF PAROLE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the board of parole for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 44. DEPARTMENT OF PERSONNEL. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of personnel for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 45. DEPARTMENT OF PUBLIC DEFENSE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of public defense for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of public defense for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For public assistance grants, grant number 83544:	\$	851,624
2. For military construction, grant number 12400:	\$	956,800
3. For hazardous materials grants, grant number 83548:	\$	5,148,150
4. For emergency management performance grants, grant number 83552:	\$	2,339,245
5. For state and local assistance, grant number 83534:	\$	259,332
6. For disaster assistance, grant number 83516:	\$	20,000
7. For hazardous materials transport, grant number 20703:	\$	133,620
8. For operations and maintenance, grant number 12401:	\$	19,747,210
9. For mitigation assistance program, grant number 83535:	\$	3,000

Sec. 46. PUBLIC EMPLOYMENT RELATIONS BOARD. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the public employment relations board for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 47. IOWA DEPARTMENT OF PUBLIC HEALTH. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the Iowa department of public health for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the Iowa department of public health for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For women, infants, and children, grant number 10557:	\$	34,920,010
2. For health services — grants and contracts, grant number 13226:	\$	250,000
3. For radon control, grant number 66032:	\$	388,136
4. For toxic substance compliance monitoring, grant number 66701:	\$	268,762
5. For drug-free schools — communities, grant number 84186:	\$	741,386
6. For hazardous waste, grant number 66802:	\$	133,862
7. For regional delivery systems, grant number 93110:	\$	284,320



8. For tuberculosis control — elimination, grant number 93116:	\$	348,227
9. For physician education, grant number 93161:	\$	266,752
10. For childhood lead abatement, grant number 93197:	\$	783,958
11. For family planning projects, grant number 93217:	\$	755,372
12. For immunization program, grant number 93268:	\$	1,746,777
13. For investigation and technical assistance, grant number 93283:	\$	2,058,554
14. For rural health, grant number 93913:	\$	62,950
15. For HIV cares grants, grant number 93917:	\$	1,444,896
16. For preventive health services, grant number 93977:	\$	728,926
17. For AIDS prevention project, grant number 93940:	\$	1,523,665
18. For breast and cervical cancer, grant number 93919:	\$	2,099,695
19. For consumer protection safety, grant number 87001:	\$	1,000
20. For federal emergency medical services for children, grant number 93127:	\$	123,817
21. For refugee and entrant assistance, grant number 93576:	\$	66,896
22. For federal environmental protection agency lead certification program, grant number 66707:	\$	379,944
23. For loan repayment, grant number 93165:	\$	120,000
24. For primary care services, grant number 93130:	\$	167,120
25. For diabetes, grant number 93988:	\$	275,429
26. For abstinence education, grant number 93235:	\$	411,415
27. For AIDS prevention project, grant number 93944:	\$	154,659
28. For data information systems, grant number 93000:	\$	363,708
29. For traumatic brain injury, grant number 93234:	\$	199,985
30. For treatment outcome performance protocol, grant number 93238:	\$	233,605
31. For United States department of justice, grant number 16000:	\$	274,108
32. For consolidated knowledge development and application, grant number 93230:	\$	830,811
33. For infants and families with disabilities, grant number 84181:	\$	12,250

34. For state and rural health, grant number 93241:	\$	369,190
35. For asthma, grant number 93293:	\$	167,831
36. For risk surveillance, grant number 93945:	\$	51,120

Sec. 48. DEPARTMENT OF PUBLIC SAFETY. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of public safety, for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of public safety for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For department of housing and urban development, grant number 14000:	\$	25,000
2. For department of justice, grant number 16000:	\$	1,167,102
3. For marijuana control, grant number 16580:	\$	58,000
4. For state and community highway safety, grant number 20600:	\$	2,507,407
5. For narcotics control, grant number 16502:	\$	750,000

Sec. 49. STATE BOARD OF REGENTS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the state board of regents for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the state board of regents for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For agricultural experiment, grant number 10203:	\$	4,125,373
2. For cooperative extension service, grant number 10500:	\$	8,300,000
3. For school breakfast program, grant number 10553:	\$	9,450
4. For school lunch program, grant number 10555:	\$	230,208
5. For maternal and child health, grant number 13110:	\$	163,897
6. For cancer treatment research, grant number 13395:	\$	37,302
7. For general research, grant number 83500:	\$	243,998,106
8. For handicapped — state grants, grant number 84027:	\$	277,725
9. For rehabilitation services basic support, grant number 84126:	\$	63,700

Sec. 50. DEPARTMENT OF REVENUE AND FINANCE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of revenue and finance for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 51. OFFICE OF SECRETARY OF STATE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the office of secretary of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 52. IOWA STATE FAIR AUTHORITY. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the Iowa state fair authority for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 53. OFFICE OF STATE-FEDERAL RELATIONS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the office of state-federal relations for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 54. IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the Iowa telecommunications and technology commission for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 55. OFFICE OF TREASURER OF STATE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the office of treasurer of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amount is appropriated to the treasurer of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

For flood control, grant number 90000:	\$	350,000
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Sec. 56. STATE DEPARTMENT OF TRANSPORTATION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the state department of transportation for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the state department of transportation for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For airport improvement program — federal aviation administration, grant number 20106:	\$	30,000
2. For highway research, plan and construction, grant number 20205:	\$	283,800,000
3. For motor carrier safety assistance, grant number 20217:	\$	50,000
4. For local rail service assistance, grant number 20308:	\$	186,000
5. For urban mass transportation, grant number 20507:	\$	6,800,000

Sec. 57. COMMISSION OF VETERANS AFFAIRS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the commission of veterans affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 58. DEPARTMENT OF WORKFORCE DEVELOPMENT. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of workforce development for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law. The following amounts are appropriated to the department of workforce development for the fiscal year beginning July 1, 2001, and ending June 30, 2002:

1. For trade expansion Act, grant number 11309:	\$	1,310,000
2. For employment statistics, grant number 17002:	\$	1,776,882
3. For research and statistics, grant number 17005:	\$	172,606
4. For labor certification, grant number 17202:	\$	3,892
5. For employment service, grant number 17207:	\$	13,704,497
6. For unemployment insurance grant to state, grant number 17225:	\$	21,471,713
7. For occupational safety and health, grant number 17500:	\$	2,303,119
8. For disabled veterans outreach, grant number 17801:	\$	1,065,375
9. For local veterans employment representation, grant number 17804:	\$	1,628,385
10. For unemployment insurance trust receipts, grant number 17998:	\$	184,010,000
11. For the federal Job Training Partnership Act, grant number 17250:	\$	1,846,048
12. For food stamps, grant number 10561:	\$	809,289
13. For labor certification, grant number 17203:	\$	60,435
14. For the federal Trade Adjustment Act, grant number 17245:	\$	1,417,823
15. For the federal Job Training Partnership Act dislocated worker, grant number 17246:	\$	7,367,409
16. For the federal Workforce Investment Act, grant number 17255:	\$	13,605,152
17. For Title IV, grant number 93668:	\$	50,000

Approved May 24, 2001

**CHAPTER 179**

**APPROPRIATIONS — JUDICIAL BRANCH**

*S.F. 527*

**AN ACT** relating to and making appropriations to the judicial branch.

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

Section 1. JUDICIAL BRANCH. There is appropriated from the general fund of the state to the judicial branch for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For salaries of supreme court justices, appellate court judges, district court judges, district associate judges, judicial magistrates and staff, state court administrator, clerk of the supreme court, district court administrators, clerks of the district court, juvenile court officers, board of law examiners and board of examiners of shorthand reporters and judicial qualifications commission, receipt and disbursement of child support payments, reimbursement of the auditor of state for expenses incurred in completing audits of the offices of the clerks of the district court during the fiscal year beginning July 1, 2001, and maintenance, equipment, and miscellaneous purposes:

..... \$ 113,792,166

1. The judicial branch, except for purposes of internal processing, shall use the current state budget system, the state payroll system, and the Iowa finance and accounting system in administration of programs and payments for services, and shall not duplicate the state payroll, accounting, and budgeting systems.

2. The judicial branch shall submit monthly financial statements to the legislative fiscal bureau and the department of management containing all appropriated accounts in the same manner as provided in the monthly financial status reports and personal services usage reports of the department of revenue and finance. The monthly financial statements shall include a comparison of the dollars and percentage spent of budgeted versus actual revenues and expenditures on a cumulative basis for full-time equivalent positions and dollars.

3. The judicial branch shall continue to assist in the development and implementation of a justice data warehouse which shall include in the Iowa court information system, starting with appointments of counsel made on or after July 1, 1999, the means to identify any case where the court has determined indigence, and whether the case is handled by a public defender or other court-appointed counsel.

4. Of the funds appropriated in this section, not more than \$1,897,728 may be transferred into the revolving fund established pursuant to section 602.1302, subsection 3, to be used for the payment of jury and witness fees and mileage.

5. The judicial branch shall focus efforts upon the collection of delinquent fines, penalties, court costs, fees, surcharges, or similar amounts.

6. It is the intent of the general assembly that the offices of the clerks of the district court operate in all ninety-nine counties and be accessible to the public as much as is reasonably possible in order to address the relative needs of the citizens of each county.

7. In addition to the requirements for transfers under section 8.39, the judicial branch shall not change the appropriations from the amounts appropriated to the branch in this Act, unless notice of the revisions is given prior to their effective date to the legislative fiscal bureau. The notice shall include information on the branch's rationale for making the changes and details concerning the work load and performance measures upon which the changes are based.

8. The judicial branch shall provide to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and to the legislative fiscal bureau

by January 15, 2002, an annual report concerning the operation and use of the Iowa court information system and any recommendations to improve the utilization of the system. The annual report shall include information specifying the amounts of fines, surcharges, and court costs collected using the system and how the system is used to improve the collection process. In addition, the judicial branch shall submit a semiannual update to the cochairpersons, ranking members, and the legislative fiscal bureau specifying the amounts of fines, surcharges, and court costs collected using the Iowa court information system since the last report. The judicial branch shall continue to facilitate the sharing of vital sentencing and other information with other state departments and governmental agencies involved in the criminal justice system through the Iowa court information system.

9. The judicial branch shall provide a report to the general assembly by January 1, 2002, concerning the amounts received and expended from the enhanced court collections fund created in section 602.1304 and the court technology and modernization fund created in section 602.8108, subsection 4, during the fiscal year beginning July 1, 2000, and ending June 30, 2001, and the plans for expenditures from each fund during the fiscal year beginning July 1, 2001, and ending June 30, 2002.

10. The judicial branch shall continue to provide criminal justice data to the department of corrections for use by the Iowa corrections offender network (ICON) data system.

Sec. 2. JUDICIAL RETIREMENT FUND. There is appropriated from the general fund of the state to the judicial retirement fund for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

Notwithstanding section 602.9104, for the state's contribution to the judicial retirement fund in the amount of 16.6 percent of the basic salaries of the judges covered under chapter 602, article 9:

..... \$ 3,207,834

Sec. 3. INDIGENT DEFENSE COSTS. The supreme court shall submit a written report for the preceding fiscal year no later than January 1, 2002, indicating the amounts collected for recovery of indigent defense costs. The report shall include the total amount collected by all courts, as well as the amounts collected by each judicial district. The supreme court shall also submit a written report quarterly indicating the number of criminal and juvenile filings which occur in each judicial district for purposes of estimating indigent defense costs. A copy of each report shall be provided to the public defender, the department of management, and the legislative fiscal bureau. The judicial branch shall continue to assist in the development of an automated data system for use in the sharing of information utilizing the justice data warehouse for legislative and executive branch uses.

Sec. 4. ENHANCED COURT COLLECTIONS FUND — DISTRIBUTION. Of the moneys collected and deposited in the enhanced court collections fund created in section 602.1304 during the fiscal year beginning July 1, 2001, \$624,000 is appropriated to and shall be expended by the judicial branch for the continued implementation of the justice data warehouse. Of the moneys appropriated in this section, \$60,000 shall be transferred to the division of criminal and juvenile justice planning of the department of human rights for 1.00 FTE to support the justice data warehouse, and \$564,000 shall be transferred to the information technology department for lease-purchase costs, and other related expenses, concerning the justice data warehouse.

However, the moneys appropriated and transferred pursuant to this section shall be reduced to the extent moneys are appropriated for the purposes provided in this section to the information technology department or the division of criminal and juvenile justice planning of the department of human rights from moneys made available pursuant to section 8.62.

Sec. 5. ENHANCED COURT COLLECTIONS FUND — JUDICIAL HOSPITALIZATION REFEREES. Notwithstanding the requirements of section 602.1304 up to \$317,450 of the moneys collected and deposited in the enhanced court collections fund created in section 602.1304 during the fiscal year beginning July 1, 2001, may be used by the court for compensation of judicial hospitalization referees.

Approved May 24, 2001

**CHAPTER 180**

**APPROPRIATIONS — TRANSPORTATION**

*S.F. 528*

**AN ACT** relating to and making transportation and other infrastructure-related appropriations to the state department of transportation and the department of general services, including allocation and use of moneys from the general fund of the state, road use tax fund, and primary road fund, providing for the nonreversion of certain moneys, and discontinuing driver’s license renewal by mail.

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

**DIVISION I**

**STATE DEPARTMENT OF TRANSPORTATION**

Section 1. There is appropriated from the general fund of the state to the state department of transportation for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

- 1. For airport engineering studies and improvement projects as provided in chapter 328:  
..... \$ 2,248,780
- 2. For the rail assistance program and to provide economic development project funding:  
..... \$ 600,000

Sec. 2. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, for the purposes designated:

- 1. For the payment of costs associated with the production of driver’s licenses, as defined in section 321.1, subsection 20A:  
..... \$ 3,997,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2002, from the appropriation made in this subsection, shall not revert, but shall remain available for subsequent fiscal years for the purposes specified in this subsection.

- 2. For salaries, support, maintenance, and miscellaneous purposes:
  - a. Operations and finance:  
..... \$ 5,119,245
  - b. Administrative services:  
..... \$ 515,430
  - c. Planning:  
..... \$ 462,013

d. Motor vehicles:		
.....	\$	25,853,238
3. For payments to the department of personnel for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A:		
.....	\$	37,500
4. Unemployment compensation:		
.....	\$	17,000
5. For payments to the department of personnel for paying workers' compensation claims under chapter 85 on behalf of employees of the state department of transportation:		
.....	\$	77,000
6. For payment to the general fund of the state for indirect cost recoveries:		
.....	\$	102,000
7. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:		
.....	\$	48,000
8. For costs associated with the county issuance of driver's licenses:		
.....	\$	30,000
9. For transfer to the department of public safety for operating a system providing toll-free telephone road and weather conditions information:		
.....	\$	100,000
10. For membership in the North America's superhighway corridor coalition:		
.....	\$	50,000
11. For payment pursuant to section 307.45 to the city of Cedar Falls for improvements to west twenty-third street adjoining university of northern Iowa property:		
.....	\$	157,781

Sec. 3. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:		
a. Operations and finance:		
.....	\$	31,446,787
.....	FTEs	310.00
b. Administrative services:		
.....	\$	3,166,223
.....	FTEs	42.00
c. Planning:		
.....	\$	8,778,226
.....	FTEs	163.00
d. Highways:		
.....	\$	166,180,223
.....	FTEs	2,782.00

Not more than \$420,000, plus an allocation for salary adjustment, shall be expended from the highway beautification fund for salaries and benefits for not more than 9.00 FTEs.

e. Motor vehicles:		
.....	\$	1,081,992
.....	FTEs	562.00
2. For deposit in the state department of transportation's highway materials and equipment revolving fund established by section 307.47 for funding the increased replacement cost of equipment:		
.....	\$	5,340,000



Not more than \$3,900,000 plus an allocation for salary adjustment, from the highway materials and equipment revolving fund, shall be expended for salaries and benefits for not more than 89.00 FTEs.

3. For payments to the department of personnel for expenses incurred in administering the merit system on behalf of the state department of transportation, as required by chapter 19A:

.....	\$	712,500
4. Unemployment compensation:		
.....	\$	328,000
5. For payments to the department of personnel for paying workers' compensation claims under chapter 85 on behalf of the employees of the state department of transportation:		
.....	\$	1,883,000
6. For disposal of hazardous wastes from field locations and the central complex:		
.....	\$	800,000
7. For payment to the general fund for indirect cost recoveries:		
.....	\$	748,000
8. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:		
.....	\$	297,000
9. For improvements to upgrade the handling of wastewater at various field facilities throughout the state:		
.....	\$	400,000
10. For replacement of roofs according to the department's priority list at field facilities throughout the state:		
.....	\$	400,000
11. For the federal Americans With Disabilities Act accessibility improvements to department facilities throughout the state:		
.....	\$	200,000
12. For renovation of the first floor of the state department of transportation administration building at the Ames complex:		
.....	\$	1,500,000
13. For construction of a telecommunications staging facility at the Ames complex:		
.....	\$	350,000
14. For replacement of the radiant heating systems in field garage facilities throughout the state:		
.....	\$	200,000
15. For an addition to the Cedar Rapids laboratory:		
.....	\$	320,000
16. For replacement of exhaust systems in field garage facilities throughout the state:		
.....	\$	350,000
17. For tuckpointing and repair of the brick exteriors of office buildings and field garage facilities throughout the state:		
.....	\$	100,000
18. For deferred maintenance projects at field facilities:		
.....	\$	351,500
19. For completion of a site utilization study at the Ames complex:		
.....	\$	200,000

Notwithstanding section 8.33, moneys appropriated in subsections 9 through 19 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 fiscal year that begins July 1, 2004.

Sec. 4. There is appropriated from the road use tax fund to the department of general services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following

amount, or so much thereof as is necessary, to be used for the purpose designated:

For planning and design of a state institutional road that shall be an extension of Twelfth street south of Court avenue, adjacent to the new judicial building in Des Moines:

..... \$ 34,000

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 purpose designated until the close of the fiscal year that begins July 1, 2004.

For purposes of this section, a "state institutional road" is part of the state park, state institution, and other state land road system, as defined in section 306.3.

## DIVISION II STATUTORY CHANGES

Sec. 5. Section 312.2, subsection 18, Code 2001, is amended to read as follows:

18. The treasurer of state, before making the allotments provided for in this section, shall credit annually from the road use tax fund to the state department of transportation the sum of six hundred fifty thousand dollars for the purpose of providing county treasurers with ~~data processing automation and telecommunications~~ equipment and support for vehicle registration and titling and driver licensing. Notwithstanding section 8.33, unobligated funds credited under this subsection remaining on June 30 of the fiscal year shall not revert but shall remain available for expenditure for purposes of this subsection in subsequent fiscal years.

Sec. 6. Section 315.3, subsection 3, Code 2001, is amended to read as follows:

3. a. If the state transportation commission receives and files a letter from the director of transportation certifying that federal funding is not forthcoming due to the failure of the United States Congress to pass and the president of the United States to approve legislation providing long-term federal transportation funding to the state of Iowa, the commission may authorize the temporary transfer of funds from the RISE fund to the primary road fund. Transferred funds shall be repaid to the RISE fund within three months of transfer.

b. ~~If the state transportation commission receives and files a letter from the director of transportation certifying that the cash flow funding of the department may be inadequate to meet anticipated road construction costs, the commission may authorize the temporary transfer of funds from the RISE fund to the primary road fund. Funds transferred under this paragraph shall be repaid to the RISE fund within six months of transfer.~~

c. The commission shall manage the RISE fund to ensure that funds will be available to meet contract obligations on approved RISE projects.

Sec. 7. Section 321.189, subsection 4, Code 2001, is amended to read as follows:

4. SYMBOLS. Upon the request of a licensee, ~~or a person renewing the person's license by mail~~, the department shall indicate on the license, ~~or the validation document issued to a person renewing by mail~~, the presence of a medical condition, that the licensee is a donor under the uniform anatomical gift law, or that the licensee has in effect a medical advance directive. For purposes of this subsection, a medical advance directive includes, but is not limited to, a valid durable power of attorney for health care as defined in section 144B.1. The license may contain such other information as the department may require by rule.

Sec. 8. Section 321.196, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Except as otherwise provided, a driver's license, other than an instruction permit, chauffeur's instruction permit, or commercial driver's instruction permit issued under section 321.180, expires, at the option of the applicant, two or four years from the licensee's birthday anniversary occurring in the year of issuance if the licensee is between the ages of seventeen years eleven months and seventy years on the date of issuance of the license. If

the licensee is under the age of seventeen years eleven months or age seventy or over, the license is effective for a period of two years from the licensee's birthday anniversary occurring in the year of issuance. Except as required in section 321.188, and except for a motorcycle instruction permit issued in accordance with section 321.180 or 321.180B, a driver's license is renewable without written examination or penalty within a period of sixty days after its expiration date and without a driving test within a period of one year after its expiration date. A person shall not be considered to be driving with an invalid license during a period of sixty days following the license expiration date. However, for a license renewed within the sixty-day period, the date of issuance shall be considered to be the previous birthday anniversary on which it expired. Applicants whose licenses are restricted due to vision or other physical deficiencies may be required to renew their licenses every two years. For the purposes of this section, the birthday anniversary of a person born on February 29 shall be deemed to occur on March 1. The department in its discretion may authorize the renewal of a valid driver's license other than a commercial driver's license upon application without an examination provided that the applicant satisfactorily passes a vision test as prescribed by the department; or files a vision report in accordance with section 321.186A which shows that the applicant's visual acuity level meets or exceeds those required by the department; ~~or is eligible for renewal by mail pursuant to rules adopted by the department. The department may assess an applicant a fee of no more than two dollars for administration and mailing expenses for providing for renewal of the applicant's driver's license by mail.~~

Approved May 24, 2001

### CHAPTER 181

#### APPROPRIATIONS — EDUCATION

S.F. 535

**AN ACT** relating to the funding of, operation of, and appropriation of moneys to the college student aid commission, the department of cultural affairs, the department of education, and the state board of regents.

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

#### COLLEGE STUDENT AID COMMISSION

Section 1. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. GENERAL ADMINISTRATION

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

.....	\$	317,282
.....	FTEs	5.40

2. STUDENT AID PROGRAMS

For payments to students for the Iowa grant program:

.....	\$	1,076,159
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3. DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER

a. For forgivable loans to Iowa students attending the Des Moines university — osteopathic medical center under the forgivable loan program pursuant to section 261.19:

..... \$ 100,000

b. For the Des Moines university — osteopathic medical center for an initiative in primary health care to direct primary care physicians to shortage areas in the state:

..... \$ 371,300

4. ACCELERATED CAREER EDUCATION GRANT PROGRAM

For the accelerated career education grant program established in section 261.22:

..... \$ 235,000

5. CHIROPRACTIC GRADUATE STUDENT FORGIVABLE LOAN PROGRAM

For purposes of providing forgivable loans under the program established in section 261.71:

..... \$ 94,000

6. NATIONAL GUARD EDUCATIONAL ASSISTANCE PROGRAM

For purposes of providing national guard educational assistance under the program established in section 261.86:

..... \$ 1,175,000

7. TEACHER SHORTAGE FORGIVABLE LOAN PROGRAM

For the teacher shortage forgivable loan program established in section 261.111:

..... \$ 493,500

Sec. 2. TRANSFER OF SCHOLARSHIP AND TUITION GRANT RESERVE FUND MONEYS BY TREASURER. Notwithstanding section 261.20, effective July 1, 2001, the treasurer of state shall transfer \$154,260 of the moneys credited to the scholarship and tuition grant reserve fund created in section 261.20 to the college student aid commission for forgivable loans pursuant to section 261.19, subsection 2.

Sec. 3. FUNDING REDUCTION DISTRIBUTION REQUIREMENT. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the college student aid commission shall reduce the amounts of grants, scholarships, loan repayments, and forgivable loan amounts provided in accordance with section 261.2, subsection 1, and sections 261.17, 261.19, 261.71, 261.93, and 261.111, rather than reduce the total number of grants, scholarships, loan repayments, and forgivable loans provided in accordance with those provisions.

Sec. 4. WORK-STUDY APPROPRIATION NULLIFICATION FOR FY 2001-2002. Notwithstanding section 261.85, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the amount appropriated for the work-study program under section 261.85 shall be zero.

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 5. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION

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

..... \$ 238,937

..... FTEs 4.30

The department of cultural affairs shall coordinate activities with the tourism division of the department of economic development to promote attendance at the state historical building and at this state's historic sites.

2. COMMUNITY CULTURAL GRANTS

For planning and programming for the community cultural grants program established under section 303.3, and for not more than the following full-time equivalent positions:

.....	\$	649,680
.....	FTEs	0.70

3. HISTORICAL DIVISION

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

.....	\$	3,159,704
.....	FTEs	66.70

4. HISTORIC SITES

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

.....	\$	560,293
.....	FTEs	8.00

5. ARTS DIVISION

For salaries, support, maintenance, miscellaneous purposes, including funds to match federal grants and for not more than the following full-time equivalent positions:

.....	\$	1,345,522
.....	FTEs	11.00

DEPARTMENT OF EDUCATION

Sec. 6. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. GENERAL ADMINISTRATION

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

.....	\$	5,693,185
.....	FTEs	104.45

The director of the department of education shall ensure that all school districts are aware of the state education resources available on the state website for listing teacher job openings and shall make every reasonable effort to enable qualified practitioners to post their resumes on the state website. The department shall administer the posting of job vacancies for school districts, accredited nonpublic schools, and area education agencies on the state website. The department may coordinate this activity with the Iowa school board association or other interested education associations in the state.

2. VOCATIONAL EDUCATION ADMINISTRATION

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

.....	\$	577,628
.....	FTEs	15.60

3. BOARD OF EDUCATIONAL EXAMINERS

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

.....	\$	50,907
.....	FTEs	9.00

4. VOCATIONAL REHABILITATION SERVICES DIVISION

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

.....	\$	4,698,441
.....	FTEs	294.00

The division of vocational rehabilitation services shall seek funding from other sources, such as local funds, for purposes of matching the state's federal vocational rehabilitation allocation, as well as for matching other federal vocational rehabilitation funding that may become available.

Except where prohibited under federal law, the division of vocational rehabilitation services of the department of education shall accept client assessments, or assessments of potential clients, performed by other agencies in order to reduce duplication of effort.

Notwithstanding the full-time equivalent position limit established in this lettered paragraph, for the fiscal year ending June 30, 2002, if federal funding is received to pay the costs of additional employees for the vocational rehabilitation services division who would have duties relating to vocational rehabilitation services paid for through federal funding, authorization to hire not more than 4.00 additional full-time equivalent employees shall be provided, the full-time equivalent position limit shall be exceeded, and the additional employees shall be hired by the division.

b. For matching funds for programs to enable persons with severe physical or mental disabilities to function more independently, including salaries and support, and for not more than the following full-time equivalent positions:

.....	\$	62,500
.....	FTEs	1.00

The highest priority use for the moneys appropriated under this lettered paragraph shall be for programs that emphasize employment and assist persons with severe physical or mental disabilities to find and maintain employment to enable them to function more independently.

5. STATE LIBRARY

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

.....	\$	1,710,439
.....	FTEs	20.00

b. For the enrich Iowa program:

.....	\$	1,880,000
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(1) Funds allocated for purposes of the enrich Iowa program as provided in this lettered paragraph shall be distributed by the division of libraries and information services to provide support for Iowa's libraries. The commission of libraries shall develop rules governing the allocation of funds provided by the general assembly for the enrich Iowa program to provide direct state assistance to public libraries and to fund the open access and access plus programs. Direct state assistance to eligible public libraries is provided as an incentive to improve library services and to reduce inequities among communities in the delivery of library services based on recognized and adopted performance measures. Funds distributed as direct state assistance shall be distributed to eligible public libraries that are in compliance with performance measures adopted by rule by the commission of libraries. The funds allocated as provided in this lettered paragraph shall not be used for the costs of administration by the division. The amount of direct state assistance distributed under the enrich Iowa program for the fiscal year beginning July 1, 2001, shall not be lower than the amount distributed under the enrich Iowa program for the fiscal year commencing July 1, 2000. The amount of direct state assistance distributed to each eligible public library shall be based upon the following:

(a) The level of compliance by the eligible public library with the performance measures adopted by the commission as provided in this subparagraph.

(b) The number of people residing within an eligible library's geographic service area for whom the library provides services.

(c) The amount of other funding the eligible public library received in the previous fiscal year for providing services to rural residents and to contracting communities.

(2) Moneys received by a public library under this lettered paragraph shall supplement, not supplant, any other funding received by the library.

(3) For purposes of this section, "eligible public library" means a public library that meets all of the following requirements:

(a) Submits to the division all of the following:

(i) The report provided for under section 256.51, subsection 1, paragraph "h".

(ii) An application and accreditation report, in a format approved by the commission, that provides evidence of the library's compliance with at least one level of the standards established in accordance with section 256.51, subsection 1, paragraph "k".

(iii) Any other application or report the division deems necessary for the implementation of the enrich Iowa program.

(b) Participates in the library resource and information sharing programs established by the state library.

(c) Is a public library established by city ordinance or a county library as provided in chapter 336.

(4) Each eligible public library shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this lettered paragraph, and shall annually submit this listing to the division.

(5) By January 15, 2002, the division shall submit a program evaluation report to the general assembly and the governor detailing the uses and the impacts of funds allocated under this lettered paragraph.

(6) A public library that receives funds in accordance with this lettered paragraph shall have an internet use policy in place, which may or may not include internet filtering. The library shall submit a report describing the library's internet use efforts to the division.

(7) A public library that receives funds in accordance with this lettered paragraph shall provide open access, the reciprocal borrowing program, as a service to its patrons, at a reimbursement rate determined by the state library.

6. REGIONAL LIBRARY

For state aid:

..... \$ 1,585,780

7. PUBLIC BROADCASTING DIVISION

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

..... \$ 7,529,579

..... FTEs 106.40

8. VOCATIONAL EDUCATION TO SECONDARY SCHOOLS

For reimbursement for vocational education expenditures made by secondary schools:

..... \$ 3,308,850

Funds appropriated in this subsection shall be used for expenditures made by school districts to meet the standards set in sections 256.11, 258.4, and 260C.14 as a result of the enactment of 1989 Iowa Acts, chapter 278. Funds shall be used as reimbursement for vocational education expenditures made by secondary schools in the manner provided by the department of education for implementation of the standards set in 1989 Iowa Acts, chapter 278.

9. SCHOOL FOOD SERVICE

For use as state matching funds for federal programs that shall be disbursed according to federal regulations, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 2,716,859

10. IOWA EMPOWERMENT FUND

For deposit in the school ready children grants account of the Iowa empowerment fund created in section 28.9:

..... \$ 14,664,000

a. From the moneys deposited in the school ready children grants account for the fiscal year beginning July 1, 2001, and ending June 30, 2002, not more than \$200,000 is allocated for the community empowerment office and other technical assistance activities. It is the intent of the general assembly that regional technical assistance teams will be established

and will include staff from various agencies, as appropriate, including the area education agencies, community colleges, and the Iowa state university of science and technology cooperative extension service in agriculture and home economics. The Iowa empowerment board shall direct staff to work with the advisory council to inventory technical assistance needs. Funds allocated under this lettered paragraph may be used by the Iowa empowerment board for the purpose of skills development and support for ongoing training of the regional technical assistance teams. However, funds shall not be used for additional staff or for the reimbursement of staff.

b. Notwithstanding any other provision of law to the contrary, for the fiscal year beginning July 1, 2001, the total amount available for distribution for that fiscal year from the school ready children grants account from the appropriation made in this subsection, in 2001 Iowa Acts, Senate File 537,<sup>1</sup> if enacted, and in any other appropriation made to the account for the fiscal year beginning July 1, 2001, shall be distributed as follows:

(1) The designated community empowerment areas that first received a school ready children grant in a fiscal year prior to fiscal year 2000-2001 shall receive 94 percent of the amount distributed to each area in fiscal year 2000-2001.

(2) The designated community empowerment areas that first received a school ready children grant in fiscal year 2000-2001 shall receive 74.185 percent of the amount distributed to each area in fiscal year 2000-2001, as adjusted for annualization.

c. As a condition of receiving funding appropriated in this subsection, each community empowerment area board shall report to the Iowa empowerment board progress on each of the state indicators approved by the state board, as well as progress on local indicators. The community empowerment area board must also submit a written plan amendment extending by one year the area’s comprehensive school ready children grant plan developed for providing services for children from birth through five years of age and provide other information specified by the Iowa empowerment board. The amendment may also provide for changes in the programs and services provided under the plan. The Iowa empowerment board shall establish a submission deadline for the plan amendment that allows a reasonable period of time for preparation of the plan amendment and for review and approval or request for modification of the plan amendment by the Iowa empowerment board. In addition, the community empowerment board must continue to comply with reporting provisions and other requirements adopted by the Iowa empowerment board in implementing section 28.8.

11. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS

To provide funds for costs of providing textbooks to each resident pupil who attends a nonpublic school as authorized by section 301.1. The funding is limited to \$20 per pupil and shall not exceed the comparable services offered to resident public school pupils:

..... \$ 611,000

12. VOCATIONAL AGRICULTURE YOUTH ORGANIZATION

To assist a vocational agriculture youth organization sponsored by the schools to support the foundation established by that vocational agriculture youth organization and for other youth activities:

..... \$ 88,736

13. CONNECTING EDUCATION AND WORKFORCE DEVELOPMENT

For purposes of providing support to statewide school-to-work implementation through professional development opportunities, employability skill revalidation, partnership capacity building, connecting to the department of workforce development’s making connections system implementation, and the integration of academic and vocational education, and for not more than the following full-time equivalent positions:

..... \$ 197,400

..... FTEs 2.50

14. COMMUNITY COLLEGES

For general state financial aid, including general financial aid to merged areas in lieu of

<sup>1</sup> Chapter 184 herein



personal property tax replacement payments, to merged areas as defined in section 260C.2, for vocational education programs in accordance with chapters 258 and 260C:

.....	\$	142,722,759
The funds appropriated in this subsection shall be allocated as follows:		
a. Merged Area I .....	\$	6,849,351
b. Merged Area II .....	\$	8,045,485
c. Merged Area III .....	\$	7,474,072
d. Merged Area IV .....	\$	3,653,168
e. Merged Area V .....	\$	7,642,878
f. Merged Area VI .....	\$	7,080,981
g. Merged Area VII .....	\$	10,216,915
h. Merged Area IX .....	\$	12,566,066
i. Merged Area X .....	\$	19,720,863
j. Merged Area XI .....	\$	20,930,929
k. Merged Area XII .....	\$	8,246,174
l. Merged Area XIII .....	\$	8,479,556
m. Merged Area XIV .....	\$	3,696,728
n. Merged Area XV .....	\$	11,632,302
o. Merged Area XVI .....	\$	6,487,291

Sec. 7. BOARD OF EDUCATIONAL EXAMINERS LICENSING FEES. Notwithstanding section 272.10, up to 85 percent of any funds received annually resulting from an increase in fees approved and implemented for licensing by the state board of educational examiners after July 1, 1997, shall be available for the fiscal year beginning July 1, 2001, to the state board for purposes related to the state board's duties, including, but not limited to, additional full-time equivalent positions. The director of revenue and finance shall draw warrants upon the treasurer of state from the funds appropriated as provided in this section and shall make the funds resulting from the increase in fees available during the fiscal year to the state board on a monthly basis.

STATE BOARD OF REGENTS

Sec. 8. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. OFFICE OF STATE BOARD OF REGENTS

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

.....	\$	1,242,055
.....	FTEs	16.00

The state board of regents, the department of management, and the legislative fiscal bureau shall cooperate to determine and agree upon, by November 15, 2001, the amount that needs to be appropriated for tuition replacement for the fiscal year beginning July 1, 2002.

The state board of regents shall submit a monthly financial report in a format agreed upon by the state board of regents office and the legislative fiscal bureau.

b. For allocation by the state board of regents to the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa to reimburse the institutions for deficiencies in their operating funds resulting from the pledging of tuitions, student fees and charges, and institutional income to finance the cost of providing academic and administrative buildings and facilities and utility services at the institutions:

.....	\$	26,681,714 <sup>2</sup>
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c. For funds to be allocated to the southwest Iowa graduate studies center:

.....	\$	110,493
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<sup>2</sup> See chapter 176, §19 herein

d. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:

..... \$ 80,780

e. For funds to be allocated to the quad-cities graduate studies center:

..... \$ 165,145

2. STATE UNIVERSITY OF IOWA

a. General university, including lakeside laboratory

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

..... \$ 241,123,493

..... FTEs 4,055.62

It is the intent of the general assembly that the university continue progress on the school of public health and the public health initiative for the purposes of establishing an accredited school of public health and for funding an initiative for the health and independence of elderly lowans. From the funds appropriated in this lettered paragraph, the university may use up to \$2,100,000 for the school of public health and the public health initiative.

Funds appropriated in this lettered paragraph shall not be available for expenditure for medically induced termination of a pregnancy, including but not limited to usage of mifepristone or RU-486, offered or administered by the student health center.

b. University hospitals

For salaries, support, maintenance, equipment, and miscellaneous purposes and for medical and surgical treatment of indigent patients as provided in chapter 255, for medical education, and for not more than the following full-time equivalent positions:

..... \$ 31,057,743

..... FTEs 5,485.57

The university of iowa hospitals and clinics shall, within the context of chapter 255 and when medically appropriate, make reasonable efforts to extend the university of iowa hospitals and clinics' use of home telemedicine and other technologies to reduce the frequency of visits to the hospital required by indigent patients. The university of iowa hospitals and clinics shall submit a report to the general assembly and the legislative fiscal bureau by January 15, 2002, describing its use of these technologies to accomplish this purpose.

The university of iowa hospitals and clinics shall submit quarterly a report regarding the portion of the appropriation in this lettered paragraph expended on medical education. The report shall be submitted in a format jointly developed by the university of iowa hospitals and clinics, the legislative fiscal bureau, and the department of management, and shall delineate the expenditures and purposes of the funds.

Funds appropriated in this lettered paragraph shall not be used to perform abortions except medically necessary abortions, and shall not be used to operate the early termination of pregnancy clinic except for the performance of medically necessary abortions. For the purpose of this lettered paragraph, an abortion is the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus, and a medically necessary abortion is one performed under one of the following conditions:

(1) The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.

(2) The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.

(3) 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.

(4) 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.

(5) The abortion is a spontaneous abortion, commonly known as a miscarriage, wherein not all of the products of conception are expelled.

The total quota allocated to the counties for indigent patients for the fiscal year beginning July 1, 2001, shall not be lower than the total quota allocated to the counties for the fiscal year commencing July 1, 1998. The total quota shall be allocated among the counties on the basis of the 2000 census pursuant to section 255.16.

c. Psychiatric hospital

For salaries, support, maintenance, equipment, miscellaneous purposes, for the care, treatment, and maintenance of committed and voluntary public patients, and for not more than the following full-time equivalent positions:

.....	\$	7,906,831
.....	FTEs	273.19

d. Center for disabilities and development

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

.....	\$	7,038,688
.....	FTEs	148.91

From the funds appropriated in this lettered paragraph, \$200,000 shall be allocated for purposes of the creative employment options program.

e. Oakdale campus

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

.....	\$	3,015,377
.....	FTEs	43.25

f. State hygienic laboratory

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

.....	\$	3,950,935
.....	FTEs	102.49

g. Family practice program

For allocation by the dean of the college of medicine, with approval of the advisory board, to qualified participants, to carry out chapter 148D for the family practice program, including salaries and support, and for not more than the following full-time equivalent positions:

.....	\$	2,312,781
.....	FTEs	192.40

h. Child health care services

For specialized child health care services, including childhood cancer diagnostic and treatment network programs, rural comprehensive care for hemophilia patients, and the Iowa high-risk infant follow-up program, including salaries and support, and for not more than the following full-time equivalent positions:

.....	\$	648,497
.....	FTEs	63.27

i. Statewide cancer registry

For the statewide cancer registry, and for not more than the following full-time equivalent positions:

.....	\$	203,991
.....	FTEs	2.40

j. Substance abuse consortium

For funds to be allocated to the Iowa consortium for substance abuse research and evaluation, and for not more than the following full-time equivalent positions:

.....	\$	72,649
.....	FTEs	1.50

k. Center for biocatalysis

For the center for biocatalysis, and for not more than the following full-time equivalent positions:

.....	\$	1,019,779
.....	FTEs	5.20

l. Primary health care initiative

For the primary health care initiative in the college of medicine and for not more than the following full-time equivalent positions:

.....	\$	861,956
.....	FTEs	7.75

From the funds appropriated in this lettered paragraph, \$330,000 shall be allocated to the department of family practice at the state university of Iowa college of medicine for family practice faculty and support staff.

m. Birth defects registry

For the birth defects registry and for not more than the following full-time equivalent positions:

.....	\$	50,070
.....	FTEs	1.30

3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

a. General university

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

.....	\$	190,789,770
.....	FTEs	3,647.42

It is the intent of the general assembly that the university continue progress on the center for excellence in fundamental plant sciences. From the funds appropriated in this lettered paragraph, the university may use up to \$4,670,000 for the center for excellence in fundamental plant sciences.

The general assembly declares that it is possible that a few large companies may be able to control all levels of the food chain, including production, because these companies own the genetics needed to participate in the food system of the future, and finds this possibility to be a major threat to the independence and profitability of Iowa's agricultural producers. To ensure public ownership of plant genetic material, all rights to the research products developed by the Iowa state university of science and technology's botany institute using state-appropriated funds will be made available to the extent practicable for commercialization, for the benefit of all Iowans, including Iowa's agricultural producers, through a public process which normally involves nonexclusive licensing of genes and germplasm.

Funds appropriated in this lettered paragraph shall not be available for expenditure for medically induced termination of a pregnancy, including but not limited to usage of mifepristone or RU-486, offered or administered by the student health center.

b. Agricultural experiment station

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

.....	\$	34,807,820
.....	FTEs	546.98

c. Cooperative extension service in agriculture and home economics

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

.....	\$	21,983,099
.....	FTEs	431.20

d. Leopold center

For agricultural research grants at Iowa state university under section 266.39B, and for not more than the following full-time equivalent positions:

.....	\$	545,052
.....	FTEs	11.25

e. Livestock disease research

For deposit in and the use of the livestock disease research fund under section 267.8, and for not more than the following full-time equivalent positions:

.....	\$	262,987
.....	FTEs	3.16

4. UNIVERSITY OF NORTHERN IOWA

a. General university

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

.....	\$	85,454,825
.....	FTEs	1,454.35

It is the intent of the general assembly that the university continue progress on the implementation of a masters in social work program. From the funds appropriated in this lettered paragraph, the university may use up to \$450,000 for the implementation of the masters in social work program, up to \$100,000 for the roadside vegetation project, and up to \$200,000 for the Iowa office for staff development.

Funds appropriated in this lettered paragraph shall not be available for expenditure for medically induced termination of a pregnancy, including but not limited to usage of mifepristone or RU-486, offered or administered by the student health center.

b. Recycling and reuse center

For purposes of the recycling and reuse center, and for not more than the following full-time equivalent positions:

.....	\$	236,649
.....	FTEs	1.50

5. STATE SCHOOL FOR THE DEAF

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

.....	\$	7,695,239
.....	FTEs	126.60

6. IOWA BRAILLE AND SIGHT SAVING SCHOOL

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

.....	\$	4,298,696
.....	FTEs	89.00

7. TUITION AND TRANSPORTATION COSTS

For payment to local school boards for the tuition and transportation costs of students residing in the Iowa braille and sight saving school and the state school for the deaf pursuant to section 262.43 and for payment of certain clothing and transportation costs for students at these schools pursuant to section 270.5:

.....	\$	15,941
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Sec. 9. MEDICAL ASSISTANCE — SUPPLEMENTAL AMOUNTS. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the department of human services shall continue the supplemental disproportionate share and a supplemental indirect medical education adjustment applicable to state-owned acute care hospitals with more than 500 beds and shall reimburse qualifying hospitals pursuant to that adjustment with a supplemental amount for services provided medical assistance recipients. The adjustment shall generate supplemental payments intended to equal the state appropriation made to a qualifying hospital for treatment of indigent patients as provided in chapter 255. To the extent of the supplemental payments, a qualifying hospital shall, after receipt of the funds, transfer to the department of human services an amount equal to the actual supplemental payments that were made in that month. The aggregate amounts for the fiscal year shall not exceed the state appropriation made to the qualifying hospital for treatment of indigent patients as provided in chapter 255. The department of human services shall deposit these funds in the

department's medical assistance account. To the extent that state funds appropriated to a qualifying hospital for the treatment of indigent patients as provided in chapter 255 have been transferred to the department of human services as a result of these supplemental payments made to the qualifying hospital, the department shall not, directly or indirectly, recoup the supplemental payments made to a qualifying hospital for any reason, unless an equivalent amount of the funds transferred to the department of human services by a qualifying hospital pursuant to this provision is transferred to the qualifying hospital by the department.

If the state supplemental amount allotted to the state of Iowa for the federal fiscal year beginning October 1, 2001, and ending September 30, 2002, pursuant to section 1923(f)(3) of the federal Social Security Act, as amended, or pursuant to federal payments for indirect medical education is greater than the amount necessary to fund the federal share of the supplemental payments specified in the preceding paragraph, the department of human services shall increase the supplemental disproportionate share or supplemental indirect medical education adjustment by the lesser of the amount necessary to utilize fully the state supplemental amount or the amount of state funds appropriated to the state university of Iowa general education fund and allocated to the university for the college of medicine. The state university of Iowa shall transfer from the allocation for the college of medicine to the department of human services, on a monthly basis, an amount equal to the additional supplemental payments made during the previous month pursuant to this paragraph. A qualifying hospital receiving supplemental payments pursuant to this paragraph that are greater than the state appropriation made to the qualifying hospital for treatment of indigent patients as provided in chapter 255 shall be obligated as a condition of its participation in the medical assistance program to transfer to the state university of Iowa general education fund on a monthly basis an amount equal to the funds transferred by the state university of Iowa to the department of human services. To the extent that state funds appropriated to the state university of Iowa and allocated to the college of medicine have been transferred to the department of human services as a result of these supplemental payments made to the qualifying hospital, the department shall not, directly or indirectly, recoup these supplemental payments made to a qualifying hospital for any reason, unless an equivalent amount of the funds transferred to the department of human services by the state university of Iowa pursuant to this paragraph is transferred to the qualifying hospital by the department.

Continuation of the supplemental disproportionate share and supplemental indirect medical education adjustment shall preserve the funds available to the university hospital for medical and surgical treatment of indigent patients as provided in chapter 255 and to the state university of Iowa for educational purposes at the same level as provided by the state funds initially appropriated for that purpose.

The department of human services shall, in any compilation of data or other report distributed to the public concerning payments to providers under the medical assistance program, set forth reimbursements to a qualifying hospital through the supplemental disproportionate share and supplemental indirect medical education adjustment as a separate item and shall not include such payments in the amounts otherwise reported as the reimbursement to a qualifying hospital for services to medical assistance recipients.

For purposes of this section, "supplemental payment" means a supplemental payment amount paid for medical assistance to a hospital qualifying for that payment under this section.

Sec. 10. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the state board of regents may use notes, bonds, or other evidences of indebtedness issued under section 262.48 to finance projects that will result in energy cost savings in an amount that will cause the state board to recover the cost of the projects within an average of six years.

Sec. 11. Notwithstanding section 270.7, the department of revenue and finance shall pay the state school for the deaf and the Iowa braille and sight saving school the moneys collected from the counties during the fiscal year beginning July 1, 2001, for expenses

relating to prescription drug costs for students attending the state school for the deaf and the Iowa braille and sight saving school.

Sec. 12. Section 256.9, subsection 46, Code 2001, is amended by striking the subsection.

\*Sec. 13. Section 260C.14, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 21. Obtain authorization from the state board of education prior to entering into any agreement or contract for the sale of a radio broadcast license or station owned by the community college. The state board shall also determine whether state moneys were used to purchase, acquire, or support the radio broadcast station or license and, if state moneys were used, the board of directors shall also seek the prior approval of the executive council. Notwithstanding any provision of law to the contrary that may grant authority to sell an asset, the board of directors of a community college shall not sell, encumber, or transfer the ownership of a radio broadcast license or station except as provided in this subsection.\*

\*Sec. 14. Section 261.25, subsections 1 through 3, Code 2001, are amended to read as follows:

1. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~forty-eight~~ forty-six million ~~eight~~ three hundred ~~thirty~~ fifty thousand ~~seventy-five~~ two hundred ~~seventy-one~~ one dollars for tuition grants.

2. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of four hundred ~~ninety-eight~~ sixty-eight thousand ~~five~~ six hundred ~~forty~~ twenty-eight dollars for scholarships.

3. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of two million ~~four~~ three hundred ~~eighty-two~~ thirty-three thousand ~~four~~ hundred ~~fifty-six~~ one dollars for vocational-technical tuition grants.\*

Sec. 15. Section 262.7, subsection 7, Code 2001, is amended to read as follows:

7. The ~~state hospital school~~ university of Iowa hospitals and clinic's center for disabilities and development.

\*Sec. 16. Section 262.9, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 30. Obtain authorization from the executive council prior to entering into any agreement or contract for the sale of a radio broadcast license or station owned by an institution of higher learning. Notwithstanding any provision of law to the contrary that may grant authority to sell an asset, neither the state board of regents nor the institutions of higher learning under the state board's control shall sell, encumber or transfer the ownership of a radio broadcast license or station except as provided in this subsection.\*

Sec. 17. Section 263.9, Code 2001, is amended to read as follows:

#### 263.9 ESTABLISHMENT AND OBJECTIVES.

The state board of regents is hereby authorized to establish and maintain in reasonable proximity to Iowa City and in conjunction with the state university of Iowa and the university hospital, a ~~hospital school~~ center for disabilities and development having as its objects the education and treatment of children with severe disabilities. ~~Such hospital schools~~ The center shall be conducted in conjunction with the activities of the university of Iowa children's hospital. Insofar as is practicable, the facilities of the university children's hospital shall be utilized.

Sec. 18. Section 263.10, Code 2001, is amended to read as follows:

#### 263.10 PERSONS ADMITTED.

Every resident of the state who is not more than twenty-one years of age, who has such severe disabilities as to be unable to acquire an education in the common schools, and every such person who is twenty-one and under thirty-five years of age who has the consent of the state board of regents, shall be entitled to receive an education, care, and training in the ~~institution~~ center for disabilities and development, and nonresidents similarly situated may be entitled to an education and care ~~therein~~ at the center upon such terms as may be fixed by

the state board of regents. The fee for nonresidents shall be not less than the average expense of resident pupils and shall be paid in advance. Residents and persons under the care and control of a director of a division of the department of human services who have severe disabilities may be transferred to the ~~hospital-school center~~ upon such terms as may be agreed upon by the state board of regents and the director.

Sec. 19. Section 263.12, Code 2001, is amended to read as follows:

263.12 PAYMENT BY COUNTIES.

The provisions of sections 270.4 to 270.8, inclusive, are hereby made applicable to the ~~state hospital-school~~ university of Iowa hospitals and clinics, center for disabilities and development.

Sec. 20. Section 263.13, Code 2001, is amended to read as follows:

263.13 GIFTS ACCEPTED.

The state board of regents is authorized to accept, for the benefit of ~~such hospital-schools~~ the center for disabilities and development, gifts, devises, or bequests of property, real or personal including grants from the federal government. ~~Said~~ The state board of regents may exercise such powers with reference to the management, sale, disposition, investment, or control of property so given, devised, or bequeathed, as may be deemed essential to its preservation and the purposes for which made. No contribution or grant shall be received or accepted if any condition is attached as to its use or administration other than it be used for aid to ~~such hospital-schools~~ the center as provided in this division.

Sec. 21. Section 294A.25, subsection 5, Code 2001, is amended to read as follows:

5. For the fiscal year beginning July 1, ~~1997~~ 2001, and ending June 30, ~~1998~~ 2002, the amount of fifty thousand dollars to be paid to the department of education for participation in a state and national project, the national assessment of education progress, to determine the academic achievement of Iowa students in math, reading, science, United States history, or geography.

Sec. 22. Section 294A.25, subsection 6, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

6. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, to the department of education from phase III moneys, the amount of seventy-five thousand dollars to administer the ambassador to education position in accordance with section 256.45.

Sec. 23. Section 294A.25, subsections 10 through 12, Code 2001, are amended by striking the subsections.

Sec. 24. Section 294A.25, subsection 13, Code 2001, is amended to read as follows:

13. For the fiscal year beginning July 1, ~~2000~~ 2001, and ending June 30, ~~2001~~ 2002, to the department of education from phase III moneys the amount of ~~fifty~~ forty-seven thousand dollars for the Iowa mathematics and science coalition.

Sec. 25. Section 331.424, subsection 1, paragraph a, subparagraph (3), Code 2001, is amended to read as follows:

(3) Clothing, transportation, medical, or other services provided persons attending the Iowa braille and sight saving school, the Iowa school for the deaf, or the ~~state hospital-school~~ university of Iowa hospitals and clinics, center for disabilities and development for children with severe disabilities at Iowa City, for which the county becomes obligated to pay pursuant to sections 263.12, 269.2, and 270.4 through 270.7.

Sec. 26. Chapter 256C, Code 2001, is repealed.

*Approved May 24, 2001, with exceptions noted.*

THOMAS J. VILSACK, Governor



Dear Secretary Culver:

I hereby transmit Senate File 535, an Act relating to the funding of, operation of, and appropriation of moneys to the College Student Aid Commission, the Department of Cultural Affairs, the Department of Education, and the State Board of Regents.

While I will allow much of Senate File 535 to become law, I do so with many reservations. This bill as passed by the Legislature does not fully meet the needs of the citizens of Iowa. Reductions in the College Student Aid Commission budget will impact approximately 7,000 students in all three sectors of higher education by either reducing the amount of the grants they receive or in the case of the Iowa Work Study Program, eliminating all state funding which assists 4,300 working students. The impact to the cultural community will be felt in many areas but the most significant will be in the reduced availability of grants to communities throughout Iowa. Several other education programs were either eliminated or drastically reduced. Tuition at the Community Colleges will increase and programs may be reduced as a result of the significant funding reductions. The Regents institutions will experience hiring stoppages, furloughs, layoffs, and possible program eliminations which will impact the quality of education offered at our state institutions of higher education.

If I had any assurance from legislative leaders that they would seriously address these matters in the upcoming special session, I would simply return the bill and ask it be improved substantially by the House and Senate. In the absence of such assurances, I will utilize my authority to the extent possible to minimize the problems that will be created by the bill as submitted. I do not have the flexibility within the expenditure limitation I must follow, however, to rectify many of the problems that will result from the education budget decisions taken by Republican legislators.

I will reluctantly sign this bill with the exceptions noted below.

I am unable to approve Section 13 in its entirety. This section requires the Community Colleges to obtain authorization from the State Board of Education prior to the sale of a radio broadcast license or station. Given the structure of local board control our Community Colleges successfully operate under, I have not been persuaded it is necessary to restrict their authority in this way at this time.

I do not approve Section 14 in its entirety.

Subsection 1 of Section 14 reduces funding for the Iowa Tuition Grant. The Iowa Tuition Grant provides need-based assistance to almost 15,000 Iowa families attending independent colleges and universities. The program gives working families the opportunity to attend Iowa's fine independent colleges and universities. The proposed reduction in this program below the current year level undermines that opportunity and breaks faith with working families who depend on these annual awards, and our local independent colleges, who help distribute this needed aid to students and families all across Iowa.

Subsection 2 of Section 14 reduces funding for the State of Iowa Scholarship. The State of Iowa Scholarship program encourages Iowa's best and brightest students to remain in the state to study at Iowa colleges and universities. We need to continue to reward their past performance and encourage them to study in Iowa, and not reduce this program.

Subsection 3 of Section 14 reduces funding for the Iowa Vocational-Technical Tuition Grant. The Iowa Vocational-Technical Tuition Grant program supports almost 6,000 Iowa students at community colleges who will help meet our state's need for highly skilled workers.

It is important to keep faith with families who look to vocational education as a means to prosper in Iowa, rather than reduce their grants. This is especially important in light of other cuts in community college funding elsewhere in this bill.

I am unable to approve Section 16 in its entirety. This section requires the authorization of the executive council, prior to the sale of a radio broadcast license or station owned by an institution of higher learning. I believe the Board of Regents current governance system provides adequate oversight and stewardship of the Regent radio stations. The Board has a statewide plan and written operating procedures regarding its radio stations. It also receives biennial governance reports on the radio stations as well as requires a series of approvals for any changes in its radio stations. Therefore, I am unconvinced that additional approvals are warranted.

I hereby approve Senate File 535, with the exceptions noted.

Sincerely,  
THOMAS J. VILSACK, Governor

**CHAPTER 182**

**APPROPRIATIONS — HEALTH AND HUMAN RIGHTS**

*H.F. 726*

**AN ACT** relating to and making appropriations to the department for the blind, the Iowa state civil rights commission, the department of elder affairs, the Iowa department of public health, the department of human rights, the governor’s office of drug control policy, and the commission of veterans affairs, providing a criminal surcharge increase, and providing an effective date.

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

Section 1. DEPARTMENT FOR THE BLIND. There is appropriated from the general fund of the state to the department for the blind for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

.....	\$	1,790,993
.....	FTEs	106.50

Sec. 2. CIVIL RIGHTS COMMISSION. There is appropriated from the general fund of the state to the Iowa state civil rights commission for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

.....	\$	1,082,743
.....	FTEs	38.05

If the anticipated amount of federal funding from the federal equal employment opportunity commission and the federal department of housing and urban development exceeds

\$736,000 during the fiscal year beginning July 1, 2001, the Iowa state civil rights commission may exceed the staffing level authorized in this section to hire additional staff to process or to support the processing of employment and housing complaints during that fiscal year.

Sec. 3. 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, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For aging programs for the department of elder affairs and area agencies on aging to provide citizens of Iowa who are over 60 years of age with case management for the frail elderly, Alzheimer's support, retired senior volunteer program, resident advocate committee coordination, employment, and other services which may include, but are not limited to, mental health outreach, adult day care, respite care, chore services, telephone reassurance, information and assistance, and home repair services, including the winterizing of homes, 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:

.....	\$	4,473,611
.....	FTEs	30.00

a. Funds appropriated in this subsection may be used to supplement federal funds under federal regulations. To receive funds appropriated in this subsection, 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 subsection may be used for elderly services not specifically enumerated in this subsection only if approved by an area agency on aging for provision of the service within the area.

b. It is the intent of the general assembly that the Iowa chapters of the Alzheimer's association and the case management program for the frail elderly shall collaborate and cooperate fully to assist families in maintaining family members with Alzheimer's disease in the community for the longest period of time possible.

c. The department shall maintain policies and procedures regarding Alzheimer's support and the retired senior volunteer program.

2. The department may grant an exception for a limited period of time, determined by the department to be reasonable, to allow for compliance by persons regulated by the department or applicants for assisted living certification with any part of chapter 104A relative to buildings in existence on July 1, 1998. The determination of the period of time allowed for compliance shall be commensurate with the anticipated magnitude of expenditure, disruption of services, and the degree of hazard presented. The department shall also be authorized to modify the accessibility requirements otherwise applicable to such applicants for buildings in existence on July 1, 1998, if the department determines that compliance with the requirements would be unreasonable, but only if it is determined that noncompliance with the requirements would not present an unreasonable degree of danger.

Sec. 4. GOVERNOR'S OFFICE OF DRUG CONTROL POLICY. There is appropriated from the general fund of the state to the governor's office of drug control policy for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For salaries, support, maintenance, miscellaneous purposes including statewide coordination of the drug abuse resistance education (D.A.R.E.) program, and for not more than the following full-time equivalent positions:

.....	\$	487,759
.....	FTEs	13.00

Sec. 5. 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, 2001, and ending June 30, 2002, 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:

.....	\$	1,492,239
.....	FTEs	13.65

a. The department shall continue to coordinate with substance abuse treatment and prevention providers regardless of funding source to assure the delivery of substance abuse treatment and prevention programs.

b. The commission on substance abuse, in conjunction with the department, shall continue to coordinate the delivery of substance abuse services involving prevention, social and medical detoxification, and other treatment by medical and nonmedical providers to uninsured and court-ordered substance abuse patients in all counties of the state.

2. ADULT WELLNESS

For maintaining or improving the health status of adults, with target populations between the ages of 18 through 60, and for not more than the following full-time equivalent positions:

.....	\$	567,197
.....	FTEs	21.99

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:

.....	\$	1,256,538
.....	FTEs	48.53

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:

.....	\$	1,327,510
.....	FTEs	8.58

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:

.....	\$	1,464,710
.....	FTEs	23.70

6. ELDERLY WELLNESS

For optimizing the health of persons 60 years of age and older, and for not more than the following full-time equivalent positions:

.....	\$	10,602,737
.....	FTEs	0.80

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:

.....	\$	166,234
.....	FTEs	8.00

8. INFECTIOUS DISEASES

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

.....	\$	1,209,818
.....	FTEs	34.30

9. INJURIES

For providing support and protection to victims of abuse or injury, or programs that are designed to prevent abuse or injury, and for not more than the following full-time equivalent positions:

.....	\$	1,653,331
.....	FTEs	7.95

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:

.....	\$	6,923,647
.....	FTEs	136.77

a. The department may expend funds received from licensing fees in addition to amounts appropriated in this subsection, if those additional expenditures are directly the result of a scope of practice review committee or unanticipated litigation costs arising from the discharge of an examining board's regulatory duties. Before the department expends or encumbers funds for a scope of practice review committee or an amount in excess of the funds budgeted for an examining board, the director of the department of management shall approve the expenditure or encumbrance. The amounts necessary to fund any unanticipated litigation or scope of practice review committee expense in the fiscal year beginning July 1, 2001, shall not exceed 5 percent of the average annual fees generated by the boards for the previous two fiscal years.

b. For the fiscal year beginning July 1, 2001, the department shall retain fees collected from the certification of lead inspectors and lead abaters pursuant to section 135.105A to support the certification program; and shall retain fees collected from the licensing, registration, authorization, accreditation, and inspection of x-ray machines used for mammographically guided breast biopsy, screening, and diagnostic mammography, pursuant to section 136C.10 to support the administration of the chapter. The department may also retain fees collected pursuant to section 136C.10 on all shippers of radioactive material waste containers transported across Iowa if the department does not obtain funding to support the oversight and regulation of this activity, and for x-ray radiology examination fees collected by the department and reimbursed to a private organization conducting the examination. For the fiscal year beginning July 1, 2001, the department shall also retain any new or increased fees implemented by the department pursuant to legislation enacted by the general assembly in 2001 for activities not otherwise funded by amounts appropriated in this section. Fees retained by the department pursuant to this lettered paragraph are appropriated to the department for the purposes specified in this lettered paragraph.

c. The department may retain and expend not more than \$263,458 for lease and maintenance expenses for the relocation of licensure boards from the executive hills state office building 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 examiners in the fiscal year beginning July 1, 2001, and ending June 30, 2002. Fees retained by the department pursuant to this lettered paragraph are appropriated to the department for the purposes described in this lettered paragraph.

d. The department may retain and expend not more than \$100,000 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, 2001, and ending June 30, 2002. Fees retained by the department pursuant to this lettered paragraph are appropriated to the department for the purposes described in this lettered paragraph.

e. If a person in the course of responding to an emergency renders aid to an injured person and becomes exposed to bodily fluids of the injured person, that emergency responder shall be entitled to hepatitis testing and immunization in accordance with the latest available

medical technology to determine if infection with hepatitis has occurred. The person shall be entitled to reimbursement from the EMS funds available under this subsection only if the reimbursement is not available through any employer or third-party payor.

f. The board of dental examiners may retain and expend not more than \$98,740 from revenues generated pursuant to section 147.80. Fees retained by the board pursuant to this lettered paragraph are appropriated to the department to be used for the purposes of regulating dental assistants.

g. The state board of medical examiners, the state board of pharmacy examiners, the state board of dental examiners, and the state board of nursing examiners shall prepare estimates of projected receipts to be generated by the licensing, certification, and examination fees of each board as well as a projection of the fairly apportioned administrative costs and rental expenses attributable to each board. Each board shall annually review and adjust its schedule of fees so that, as nearly as possible, projected receipts equal projected costs.

h. The state board of medical examiners, the state board of pharmacy examiners, the state board of dental examiners, and the state board of nursing examiners shall retain their individual executive officers, but are strongly encouraged to share administrative, clerical, and investigative staffs to the greatest extent possible.

i. For the period ending June 30, 2002, the state board of medical examiners, the state board of pharmacy examiners, the state board of dental examiners, and the state board of podiatry examiners shall not sanction or otherwise take any action against licensees who use an automatic dispensing system for prescription drugs in the absence of a pharmacist or practitioner that would otherwise be in violation of section 147.107, subsection 2, and section 155A.33, provided both of the following conditions are met:

(1) The licensee utilizes an internal quality control assurance plan that ensures accuracy in dispensing.

(2) The licensee remains responsible for the verification and accuracy of the automated dispensing system in accordance with the standards adopted by the licensee's examining board.

It is the intent of the general assembly that the board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of podiatry examiners shall meet to identify a statutory resolution of the issues raised by the use of automated dispensing systems for prescription drugs and submit their findings and legislative recommendations to the governor and general assembly by December 1, 2001.

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:

.....	\$	1,260,179
.....	FTEs	59.33

12. The state 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.

13. 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.

14. a. The department shall apply for available federal funds for sexual abstinence education programs in accordance with the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, § 912.

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. 6. DEPARTMENT OF HUMAN RIGHTS. There is appropriated from the general fund of the state to the department of human rights for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRAL ADMINISTRATION DIVISION

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

.....	\$	277,345
.....	FTEs	7.00

2. DEAF SERVICES DIVISION

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

.....	\$	350,211
.....	FTEs	7.00

The fees collected by the division for provision of interpretation services by the division to obligated agencies shall be disbursed pursuant to the provisions of section 8.32, and shall be dedicated and used by the division for continued and expanded interpretation services.

3. PERSONS WITH DISABILITIES DIVISION

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

.....	\$	192,587
.....	FTEs	3.50

4. LATINO AFFAIRS DIVISION

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

.....	\$	172,528
.....	FTEs	3.00

5. STATUS OF WOMEN DIVISION

For salaries, support, maintenance, miscellaneous purposes, including the Iowans in transition program, and the domestic violence and sexual assault-related grants, and for not more than the following full-time equivalent positions:

.....	\$	400,996
.....	FTEs	3.00

6. STATUS OF AFRICAN-AMERICANS DIVISION

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

.....	\$	137,714
.....	FTEs	2.00

7. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

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

.....	\$	412,481
.....	FTEs	9.20

The criminal and juvenile justice planning advisory council and the juvenile justice advisory council shall coordinate their efforts in carrying out their respective duties relative to juvenile justice.

It is the intent of the general assembly that the department of human rights employ sufficient staff to meet the federal funding match requirements established by the federal office for juvenile justice and delinquency prevention. The governor's advisory council on juvenile justice shall determine the staffing level necessary to carry out federal and state mandates for juvenile justice.

8. COMMUNITY GRANT FUND

For the community grant fund established in section 232.190, to be used for the purposes of the community grant fund and for not more than the following full-time equivalent positions:

.....	\$	725,000
.....	FTEs	1.44

9. SHARED STAFF. The divisions of the department of human rights shall retain their individual administrators, but shall share staff to the greatest extent possible.

Sec. 7. 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, 2001, and ending June 30, 2002, 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 orphan educational fund established pursuant to chapter 35, and for not more than the following full-time equivalent positions:

.....	\$	283,190
.....	FTEs	5.00

The commission of veterans affairs may use the gifts accepted by the chairperson of the commission of veterans affairs, or designee, and other resources available to the commission for use at its Camp Dodge office. The commission shall report annually to the governor and the general assembly on monetary gifts received by the commission for the Camp Dodge office.

2. IOWA VETERANS HOME

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

.....	\$	47,268,500
.....	FTEs	845.00

a. The Iowa veterans home may use the gifts accepted by the chairperson of the commission of veterans affairs and other resources available to the commission for use at the Iowa veterans home.

b. If medical assistance revenues are expanded at the Iowa veterans home, and this expansion results in medical assistance reimbursements which exceed the amount budgeted for that purpose in the fiscal year beginning July 1, 2001, and ending June 30, 2002, the Iowa veterans home may expend the excess amounts to exceed the number of full-time equivalent positions authorized for the purpose of meeting related certification requirements or to provide additional beds. The expenditure of additional funds received, as outlined in this paragraph, is subject to approval by the department of management. The amount approved by the department of management for expenditure shall be considered repayment receipts.

c. Any Iowa veterans home successor contractor shall not consider employees of a state institution or facility to be new employees for purposes of employee wages, health insurance, or retirement benefits.

d. The chairpersons and ranking members of the joint appropriations subcommittee on health and human rights shall be notified by January 15 of any calendar year during which a request for proposals is anticipated to be issued regarding any Iowa veterans home contract involving employment, for purposes of providing legislative review and oversight.

e. The Iowa veterans home may retain reimbursements for medication costs obtained from the federal department of veterans affairs for the fiscal year beginning July 1, 2001, and ending June 30, 2002, in an amount sufficient for the payment of new and increased pharmaceutical costs and lease payments on a unit dose machine. Moneys retained pursuant to this paragraph are appropriated to the Iowa veterans home to be used for the purposes of this paragraph.



f. In an effort to improve public understanding of the budget of the Iowa veterans home, and to adequately meet the needs of the residents of the Iowa veterans home, it is the intent of the general assembly that the Iowa veterans home shall submit a report by December 1, 2001, to the fiscal committee of the legislative council regarding the funds appropriated to the Iowa veterans home in the previous fiscal year, and any further information the fiscal committee may request.

Sec. 8. GAMBLING TREATMENT FUND — APPROPRIATION.

1. There is appropriated from funds available in the gambling treatment fund established in the office of the treasurer of state pursuant to section 99E.10 to the Iowa department of public health for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. Addictive disorders

To be utilized for the benefit of persons with addictions:

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

b. For transfer to the commission of veterans affairs to be utilized for the benefit of the Iowa veterans home:

..... \$ 371,488

c. Gambling treatment program

The funds remaining in the gambling treatment fund after the appropriations in paragraphs "a" and "b" are made 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, education and preventive services, and financial management services.

2. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, from the tax revenue received by the state racing and gaming commission pursuant to section 99D.15, subsections 1, 3, and 4, an amount equal to three-tenths of one percent of the gross sum wagered by the pari-mutuel method is to be deposited into the gambling treatment fund.

Sec. 9. Section 135.102, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Model regulations for lead hazard remediation to be used in instances in which a child is confirmed as lead poisoned. The department shall make the model regulations available to local boards of health and shall promote the adoption of the regulations at the local level, in cities and counties implementing lead hazard remediation programs. Nothing in this subsection shall be construed as requiring the adoption of the model regulations.

Sec. 10. Section 602.8108, subsection 3, paragraph c, Code 2001, is amended to read as follows:

c. Notwithstanding provisions of this subsection to the contrary, all moneys collected from the drug abuse resistance education surcharge provided in section 911.2 shall be remitted to the treasurer of state for deposit in the general fund of the state and the amount deposited is appropriated to the governor's office of drug control policy for use by the drug abuse resistance education program and other programs directed for a similar purpose.

Sec. 11. Section 911.2, Code 2001, is amended to read as follows:

911.2 SURCHARGE.

When a court imposes a fine or forfeiture for a violation of a state law, or of a city or county ordinance except an ordinance regulating the parking of motor vehicles, the court shall assess an additional penalty in the form of a surcharge equal to thirty percent of the fine or forfeiture imposed. An additional drug abuse resistance education surcharge of ~~five~~ ten dollars shall be assessed by the clerk of the district court if the violation arose out of a violation of an offense provided for in chapter 321J or chapter 124, division IV. In the event

of multiple offenses, the surcharge shall be based upon the total amount of fines or forfeitures imposed for all offenses. When a fine or forfeiture is suspended in whole or in part, the surcharge shall be reduced in proportion to the amount suspended.

The surcharge is subject to the provisions of chapter 909 governing the payment and collection of fines, as provided in section 909.8.

Sec. 12. **CANCER STUDY AND REPORT.** The director of public health, in consultation with an ad hoc committee comprised of public health officials, health care providers, consumer groups, educators, representatives from the state cancer registry, representatives from the cancer chapter team of healthy Iowans 2010, and other members deemed appropriate by the director, shall conduct a study regarding comprehensive cancer control in the state. The study shall include but not be limited to:

1. An assessment of the incidence and prevalence of cancer, including determinations of any geographic, social, or economic patterns, or other common characteristics which identify vulnerable populations at risk of cancer.

2. An evaluation of the effectiveness of current cancer control efforts in terms of prevention, early detection, treatment, rehabilitation, and quality of life. The study should consider strategies to maximize existing public health and private practice resources through improved coordination and program planning. The study shall also identify opportunities to increase and enhance efforts that focus on cancer with special attention to prostate, bladder, colorectal, skin, lung, oropharyngeal, breast, and cervical cancer.

3. A review to encourage screening guidelines and tests that lead to a reduction in site-specific cancer incidence rates.

4. An effort to identify additional federal funding sources and opportunities to enhance medical assistance dollars for the treatment of breast and cervical cancer through the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000, Pub. L. No. 106-354.

5. An evaluation of the availability and effectiveness of current resources, programs, and efforts to address cancer with special attention to prostate, bladder, colorectal, skin, lung, oropharyngeal, breast, and cervical cancer.

The study shall consider the findings and recommendations of healthy Iowans 2010 relating to cancer. The director shall submit a report of the study's recommendations to the governor and the general assembly by January 2, 2002, and present the findings to a joint meeting of the human resources committees of the Iowa general assembly during the 2002 session.

Sec. 13. **VITAL RECORDS.** The vital records modernization project as enacted in 1993 Iowa Acts, chapter 55, section 1, as amended by 1994 Iowa Acts, chapter 1068, section 8, as amended by 1997 Iowa Acts, chapter 203, section 9, 1998 Iowa Acts, chapter 1221, section 9, and 1999 Iowa Acts, chapter 201, section 17, and as continued by 2000 Iowa Acts, chapter 1222, section 10, shall be extended until June 30, 2002, and the increased fees to be collected pursuant to that project shall continue to be collected and are appropriated to the Iowa department of public health until June 30, 2002.

Sec. 14. **EFFECTIVE AND APPLICABILITY DATES.** Section 5, subsection 10, paragraph "i", of this Act relating to the automatic dispensing system for prescription drugs, being deemed of immediate importance, takes effect upon enactment.

Approved May 24, 2001

## CHAPTER 183

### APPROPRIATIONS — AGRICULTURE AND NATURAL RESOURCES

H.F. 725

**AN ACT** relating to and making appropriations involving state government, including provisions affecting agriculture and natural resources, providing for fees, and providing an effective date.

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

#### DIVISION I

#### DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Section 1. GENERAL DEPARTMENT APPROPRIATION. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

##### 1. ADMINISTRATIVE DIVISION

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

.....	\$	2,327,448
.....	FTEs	47.33

(1) Of the amount appropriated in this paragraph "a", at least \$87,000 shall be used to support livestock market news reporting, including the support of 1.00 FTE to provide for six part-time staff positions on a contract basis.

(2) Of the amount appropriated and full-time equivalent positions authorized in this paragraph "a", at least \$70,000 and 1.00 FTE shall be allocated to support the state apiarist in administering the provisions of chapter 160.

b. For deposit in the international relations fund created in section 159.21 to carry out the purposes of that fund:

.....	\$	20,151
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c. For the purpose of performing commercial feed audits:

.....	\$	71,871
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d. For the purpose of performing fertilizer audits:

.....	\$	71,873
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##### 2. REGULATORY DIVISION

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

.....	\$	4,446,344
.....	FTEs	124.00

b. For the costs of inspection, sampling, analysis, and other expenses necessary for the administration of chapters 192 and 194:

.....	\$	677,829
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##### 3. LABORATORY DIVISION

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

.....	\$	891,354
.....	FTEs	84.00

Of the amount appropriated and full-time equivalent positions authorized in this paragraph "a", at least \$80,000 and 4.00 FTEs shall be allocated to support a program relating to the detection, surveillance, and eradication of the gypsy moth. The allocation of moneys shall be made before other moneys appropriated in this paragraph "a" are allocated.

- b. For the operations of the commercial feed programs:
 

.....	\$	811,240
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- c. For the operations of the pesticide programs:
 

.....	\$	996,627
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- d. For the operations of the fertilizer programs:
 

.....	\$	537,170
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4. SOIL CONSERVATION DIVISION

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

.....	\$	6,862,875
.....	FTEs	194.11

a. Of the amount appropriated in this subsection, \$268,376 shall be used to reimburse commissioners of soil and water conservation districts for administrative expenses, including, but not limited to, travel expenses and technical training. Moneys used for the payment of meeting dues by counties shall be matched on a dollar-for-dollar basis by the soil conservation division.

b. Of the amount appropriated in this subsection, \$44,000 shall be used to support inspections for noncoal mining operations.

Sec. 2. FARMERS' MARKET COUPON PROGRAM. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes, to be used by the department to continue and expand the farmers' market coupon program by providing federal special supplemental food program recipients with coupons redeemable at farmers' markets, and for not more than the following full-time equivalent positions:

.....	\$	304,680
.....	FTEs	2.00

DIVISION II  
DEPARTMENT OF NATURAL RESOURCES  
GENERAL APPROPRIATIONS

Sec. 3. GENERAL DEPARTMENT APPROPRIATIONS. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE AND SUPPORT SERVICES

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

.....	\$	2,052,531
.....	FTEs	118.25

2. PARKS AND PRESERVES DIVISION

For salaries, support, and maintenance of personnel and programs relating to water access development, all state parks as they existed on April 1, 2001, recreation areas, and state preserves, and for related miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,983,100
.....	FTEs	195.73

The department shall use moneys collected by the department resulting from that portion of fees designated for the use of state parks and recreation areas and associated facilities or services that were increased by the natural resource commission in 2000 exclusively for the purpose of keeping open all state parks as they existed on April 1, 2001.

3. FORESTS AND PRAIRIES DIVISION

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

.....	\$	1,765,460
.....	FTEs	53.71

4. ENERGY AND GEOLOGICAL RESOURCES DIVISION

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

.....	\$	1,704,683
.....	FTEs	59.00

5. ENVIRONMENTAL PROTECTION DIVISION

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

.....	\$	4,612,753
.....	FTEs	226.50

6. FISH AND WILDLIFE DIVISION

For not more than the following full-time equivalent positions:

.....	FTEs	356.18
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Of the number of full-time equivalent positions authorized in this subsection, at least 3.00 FTEs shall be dedicated to supporting prairie seed harvest initiatives.

7. WASTE MANAGEMENT ASSISTANCE DIVISION

For not more than the following full-time equivalent positions:

.....	FTEs	53.75
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Sec. 4. STATE FISH AND GAME PROTECTION FUND — APPROPRIATION TO THE DIVISION OF FISH AND WILDLIFE.

1. a. There is appropriated from the state fish and game protection fund to the division of fish and wildlife of the department of natural resources for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For administrative support, and for salaries, support, maintenance, equipment, and miscellaneous purposes:

.....	\$	26,383,240
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b. The department may use moneys appropriated in paragraph "a", as is necessary to provide compensation to conservation peace officers employed in a protection occupation who retire, pursuant to section 97B.49B.

2. The department shall not expend more moneys from the fish and game protection fund than provided in this section, unless the expenditure derives from contributions made by a private entity, or a grant or moneys received from the federal government, and is approved by the natural resource commission. The department of natural resources shall promptly notify the legislative fiscal bureau and the chairpersons and ranking members of the joint appropriations subcommittee on agriculture and natural resources concerning the commission's approval.

DIVISION III  
RELATED TRANSFERS AND APPROPRIATIONS  
DEPARTMENT OF NATURAL RESOURCES

Sec. 5. SNOWMOBILE FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 2001, from the fees deposited under section 321G.7 to the fish and game protection fund and appropriated to the department of natural resources for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For enforcing snowmobile laws as part of the state snowmobile program administered by the department of natural resources:

.....	\$	100,000
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Sec. 6. VESSEL FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 2001, from the fees deposited under section 462A.52 to the fish and game protection fund and appropriated to the natural resource commission for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the administration and enforcement of navigation laws and water safety:  
..... \$ 1,400,000

Notwithstanding section 8.33, moneys transferred and appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert to the credit of the fish and game protection fund but shall be credited to the special conservation fund established by section 462A.52 to be used as provided in that section.

DIVISION IV  
SPECIAL APPROPRIATIONS  
DEPARTMENT OF NATURAL RESOURCES

Sec. 7. MARINE FUEL TAX RECEIPTS — BOATING FACILITIES. There is appropriated from the marine fuel tax receipts deposited in the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of maintaining and developing boating facilities and access to public waters by the parks and preserves division:  
..... \$ 411,311

Sec. 8. REVENUE ADMINISTERED BY THE IOWA COMPREHENSIVE UNDERGROUND STORAGE TANK FUND BOARD. There is appropriated from the unassigned revenue fund administered by the Iowa comprehensive underground storage tank fund board, to the department of natural resources for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For administration expenses of the underground storage tank section of the department of natural resources:  
..... \$ 75,000

Sec. 9. GROUNDWATER PROTECTION FUND.

1. Notwithstanding section 455E.11, subsection 2, paragraph “b”, subparagraph (3), subparagraph subdivision (a), of the remaining moneys appropriated from the agricultural management account of the groundwater protection fund that would otherwise be used to support the Leopold center for sustainable agriculture at Iowa state university of science and technology, there is appropriated for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts to be used for the purposes designated:

*\*a. To the department of agriculture and land stewardship for salaries, support, maintenance, and miscellaneous purposes of the department’s laboratory division in administering the operations of pesticide programs:*  
..... \$ 100,000\*

*b. To the department of natural resources for salaries, support, maintenance, and miscellaneous purposes of the department’s environmental protection division:*  
..... \$ 250,000

2. The moneys appropriated in subsection 1\*, paragraphs “a” and “b”\* shall first be appropriated *\*to the department of agriculture and land stewardship and then\** to the department of natural resources prior to moneys appropriated to support the Leopold center for sustainable agriculture at Iowa state university of science and technology as otherwise provided in section 455E.11, subsection 2, paragraph “b”, subparagraph (3), subparagraph subdivision (a).

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

*\*Sec. 10. FORESTRY MANAGEMENT AND ENHANCEMENT FUND. Notwithstanding section 456A.21, there is appropriated from the forestry management and enhancement fund to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:*

*For purposes of supporting the department's laboratory division in administering a program relating to the detection, surveillance, and eradication of the gypsy moth:*  
 ..... \$ 40,000\*

Sec. 11. STORMWATER DISCHARGE PERMIT FEES. Notwithstanding any provision of state law, there is appropriated from moneys collected in fees required to be paid to the department of natural resources for issuing stormwater discharge permits pursuant to section 455B.103<sup>1</sup> that are unobligated and unencumbered on June 30, 2001, to the department for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as are necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, and miscellaneous purposes of the department's energy and geological resources division:  
 ..... \$ 250,000

2. For salaries, support, maintenance, and miscellaneous purposes of the department's environmental protection division:  
 ..... \$ 200,000

Sec. 12. HAZARDOUS SUBSTANCE REMEDIAL FUND. Notwithstanding any provision of state law, there is appropriated from the hazardous substance remedial fund as created in section 455B.423 to the department of natural resources for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For payment of the department's workers' compensation insurance premium:  
 ..... \$ 73,606

Sec. 13. FLOODPLAIN PERMIT BACKLOG. Notwithstanding any provision of state law, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the department of natural resources may use additional funds available to the department from stormwater discharge permit fees for the staffing of the following additional full-time staff members to reduce the department's floodplain permit backlog:

..... FTEs 2.00

Sec. 14. IMPLEMENTATION OF THE FEDERAL TOTAL MAXIMUM DAILY LOAD PROGRAM. Notwithstanding any contrary provision of state law, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the department of natural resources may use additional funds available to the department from stormwater discharge permit fees for the staffing of the following additional full-time equivalent positions for implementation of the federal total maximum daily load program:

..... FTEs 2.00

SPECIAL APPROPRIATIONS  
 ANIMAL HEALTH AND INDUSTRY

Sec. 15. HORSE AND DOG RACING. There is appropriated from the moneys available under section 99D.13 to the regulatory division of the department of agriculture and land stewardship for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for the administration of section 99D.22:  
 ..... \$ 271,307

\* Item veto; see message at end of the Act  
<sup>1</sup> Iowa Code section 455B.103A probably intended

Sec. 16. PSEUDORABIES ERADICATION PROGRAM.

1. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For support of the pseudorabies eradication program:

..... \$ 900,700

2. Persons, including organizations interested in swine production in this state and in the promotion of Iowa pork products who contribute support to the program, are encouraged to increase financial support for purposes of ensuring the program's effective continuation.

Sec. 17. SECURITY MEASURES TO CONTROL FOREIGN AGRICULTURAL ANIMAL DISEASES. There is appropriated from the brucellosis and tuberculosis eradication fund created in section 165.18 to the department of agriculture and land stewardship for the fiscal period beginning July 1, 2000, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the implementation of security measures necessary in order to control outbreaks of foreign agricultural animal diseases introduced into this state, such as mad cow disease, foot and mouth disease, and classical swine fever (hog cholera), including for salaries, support, maintenance, and miscellaneous purposes:

..... \$ 200,000

1. The department shall expend moneys appropriated in this section as deemed necessary by the department to support prevention, including by education and training; surveillance and detection, including by monitoring and testing; and emergency response if necessary, including by the issuance of orders restricting the movement of agricultural animals. The department shall do all of the following:

- a. Provide for emergency planning.
- b. Provide training to interested persons, including agricultural producers, veterinarians, and agricultural associations.
- c. Publish and disseminate educational materials to the public and interested persons.

2. The department shall cooperate with other agencies of the state, including the emergency management division of the department of public defense, the department of natural resources, and the department of public safety. The department shall also cooperate with the United States department of agriculture, and interested associations, including associations representing agricultural producers.

3. The department shall apply for moneys appropriated by the federal government in order to support the purposes of this section.

4. The Iowa cattlemen's association, the Iowa pork producers association, the Iowa sheep association, the Iowa poultry association, the Iowa turkey federation, the Iowa dairy products association, the Iowa corn growers association, the Iowa soybean association, the Iowa farm bureau federation, the agribusiness association of Iowa, and associations representing financial institutions in this state shall to every extent possible provide financial or in-kind contributions in order to assist the department in carrying out this section.

5. The department shall not authorize the assessment of a levy as otherwise provided in section 165.18 because of moneys appropriated in this section.

DIVISION V  
MISCELLANEOUS

Sec. 18. INTERIM COMMITTEE — WATER QUALITY STUDY. The legislative council is requested to create a water quality interim study committee to study the quality of this state's surface and subsurface waters, including drinking water sources. The interim committee shall consider all major sources of contamination, current effluent and treatment standards, and practices or systems designed to prevent or reduce contamination. The



department of agriculture and land stewardship and the department of natural resources shall cooperate with the interim study committee. If created, the interim study committee, as directed by the legislative council, shall report to the general assembly regarding any recommendations required to improve water quality in this state, including legislative measures to reduce contamination that may pose a risk to human health.

Sec. 19. **ISSUANCE OF PERMITS BY THE DEPARTMENT OF NATURAL RESOURCES.** For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the department of natural resources shall approve, deny, or delay consideration of a permit application required to be submitted to the department based only on requirements relating to the merit of the application or applicant, procedural requirements of the department unrelated to staff availability, and state law including but not limited to section 455B.104.

Sec. 20. Section 169.4,<sup>2</sup> Code 2001, is amended to read as follows:  
169A.4 RECORDING — FEE.

A person desiring to adopt a brand shall forward to the secretary a brand application on forms approved by the secretary and providing for the desired brand, together with a recording fee ~~in an amount established by rule of the secretary pursuant to chapter 17A of twenty-five dollars. The fee amount shall be based upon the administrative costs of maintaining the brand program provided for by this chapter.~~ Upon receipt, the secretary shall file the application and fee, unless the brand is of record of another person or conflicts with or closely resembles the brand of another person. If the secretary determines that such brand is of record or conflicts with or closely resembles the brand of another person, the secretary shall not record it but shall return the facsimile and fee to the forwarding person. However, the secretary shall renew a conflicting brand, if the brand was originally recorded prior to July 1, 1996, and the brand is renewed as provided in section 169A.13. The department may notify each owner of a conflicting brand that the owner may record a nonconflicting brand. The power of examination, approval, acceptance, or rejection shall be vested in the secretary. The secretary shall file all brands offered for record pending the examination provided for in this section. The secretary shall make such examination as promptly as possible. If the brand is accepted, the brand's ownership shall vest in the person recording it from the date of filing.

Sec. 21. Section 169A.13, Code 2001, is amended to read as follows:  
169A.13 **RENEWAL OF BRAND AND FEE EACH FIFTH YEAR.**

Each owner of a brand of record ~~beginning on January 1, 1970, shall pay to the secretary a fee of five dollars and a renewal fee on January 1 of which is recorded pursuant to section 169A.4 shall renew the brand each fifth year after the payment of the five dollar fee, or on January 1 of each fifth year following the original originally recording of a the brand recorded after June 30, 1975 and pay a renewal fee.~~ The amount of the renewal fee ~~required for January 1, 1976, and each year thereafter shall be established by rule of the secretary pursuant to chapter 17A is twenty-five dollars. The amount of the fee shall be based upon the administrative costs of maintaining the brand program provided for in this chapter.~~ The secretary shall notify every owner of a brand of record at least thirty days prior to the date of the renewal period. If the owner of a brand of record does not ~~renew the brand and pay the renewal fee by July 1 of each year in which it within six months after it is due,~~ the owner shall forfeit the brand and the brand shall no longer be recorded. A forfeited brand shall not be issued to any other person for five years following date of forfeiture.

Sec. 22. **NEW SECTION.** 169A.13A **BRANDING ADMINISTRATION FUND.**

1. A branding administration fund is created in the state treasury under the control of the department. The fund is composed of moneys collected in fees as provided in this chapter, moneys appropriated by the general assembly, and moneys available to and obtained or accepted by the department from the United States or private sources for placement in the fund.

<sup>2</sup> According to enrolled Act; section 169A.4 probably intended

2. The fund is subject to warrants written by the director of revenue and finance, drawn upon the written requisition of the department.

3. Moneys in the fund are appropriated to the department for the exclusive purpose of supporting the administration of this chapter by the department.

4. The department may adopt rules pursuant to chapter 17A to administer this section.

5. Section 8.33 shall not apply to moneys in the fund. Notwithstanding section 12C.7, moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section.

Sec. 23. Section 169A.12, Code 2001, is repealed.

DIVISION VI  
EFFECTIVE DATE PROVISIONS

Sec. 24. Section 11 of this Act, providing for the appropriations of stormwater discharge permit fees, takes effect upon enactment.

Sec. 25. Section 17 of this Act, being deemed of immediate importance, takes effect upon enactment.

*Approved May 25, 2001, with exceptions noted.*

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 725, an Act relating to and making appropriations to the Iowa Department of Agriculture & Land Stewardship (DALs) and the Iowa Department of Natural Resources (DNR).

I reluctantly approve House File 725. This bill represents a 19 percent reduction in general fund appropriations to the DNR and DALs below their FY 2001 appropriation. Furthermore, the DNR receives a disproportionate cut amounting to a budget reduction six times that of the DALs. The result will be direct impacts to the services that Iowans have come to expect from both departments in protecting and enhancing our state's natural resources and in ensuring a healthy and vibrant agriculture industry in Iowa.

The Legislature has chosen to underfund our state parks to the point where some Iowans will no longer be able to enjoy the outdoor recreation this year that our parks have provided in the past. The Legislature's attempt at using the camping fee increase to keep all state parks open is unrealistic considering the Parks Division will still encounter a net shortfall of approximately \$500,000 even with the increase. The Legislature has similarly chosen to underfund the Leopold Center for Sustainable Agriculture in this bill. The Leopold Center is recognized nationally for its role in providing farmers the tools necessary to implement farming practices aimed at conserving natural resources and reducing negative impacts on agriculture thereby avoiding the need for regulation while maintaining profitability. The Legislature's action will result in a decrease in sustainable alternatives to environmental regulation available to Iowa farmers.

In addition, the Legislature has chosen to underfund the Environmental Protection Division of the DNR. At the same time, House File 725 requires the department to approve, deny, or delay consideration of a permit application based only on the merits of the application and not on staff availability. The cut to this division combined with the permitting requirement will

result in reductions in animal feeding operations inspections and a delay in the department's response to complaints. The impact will be that Iowans must put up with the smell and contamination of our rivers and lakes from livestock operations out of compliance for longer periods of time while the division staff is required by the Legislature to process paper.

I am greatly concerned about the number of bad budgeting practices the Legislature has included in House File 725. This bill includes the appropriation of \$913,606 in one-time funding sources to fund ongoing expenditures. For example, the Legislature appropriated \$250,000 from stormwater permit fees deposits to an ongoing water monitoring and well testing program. This is problematic in that Iowans rely on these ongoing water quality services that have only a single year's funding.

House File 725 is, therefore, approved on this date, with the following exceptions, which I hereby disapprove. I do not approve Section 9, subsection 1, paragraph a and the designated portions of Section 9, subsection 2. This item redirects \$100,000 from the groundwater protection fund to support the Leopold Center to the DALS for the operations of their pesticide program. These provisions take money from a program targeted at reducing the need for pesticides and transfer it to a program that provides training for pesticide applicators. While both are important programs to Iowa agriculture, research funding for one will reduce the demand for the other.

I do not approve Section 10. This item appropriates \$40,000 from the DNR forestry management and enhancement fund to the DALS to support the gypsy moth eradication program. This transfer of funds is not needed; however, the opportunity exists for the DNR to work cooperatively with the DALS on implementing this important program.

For the above reasons, I hereby respectfully approve House File 725 with the exceptions noted above.

Sincerely,  
THOMAS J. VILSACK, *Governor*

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## CHAPTER 184

### TOBACCO SETTLEMENT FUND APPROPRIATIONS

*S.F. 537*

**AN ACT** relating to and making appropriations from the tobacco settlement endowment fund and the healthy Iowans tobacco trust, establishing certain uses for the appropriations, and providing effective dates.

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

Section 1. **HEALTHY IOWANS TOBACCO TRUST — APPROPRIATIONS TO DEPARTMENTS.** There is appropriated from the healthy Iowans tobacco trust created in section 12.65 to the following departments for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To the department of human services:
  - a. Unless otherwise provided, to maintain the reimbursement rate for all noninstitutional

medical assistance providers, with the exception of anesthesia and dental services, at the rate provided under the federal Medicare program for such providers during the fiscal year beginning July 1, 2000, and ending June 30, 2001, as specified in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "a", for the fiscal year July 1, 2001, through June 30, 2002, and to continue the resource-based relative value system of reimbursement under the medical assistance program:

..... \$ 8,095,718

b. To maintain the reimbursement rate at the usual and customary rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "b", for the fiscal year July 1, 2001, through June 30, 2002, for dental services under the medical assistance program:

..... \$ 3,814,973

c. To maintain the cost-of-living adjustment as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "c", for the fiscal year July 1, 2001, through June 30, 2002, for rehabilitative treatment and support services providers under child and family services:

..... \$ 3,243,026

d. To maintain the cost-of-living adjustment as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "d", for the fiscal year July 1, 2001, through June 30, 2002, for adoption, independent living, shelter care, and home studies services providers:

..... \$ 468,967

e. To maintain the reimbursement rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "e", for the fiscal year July 1, 2001, through June 30, 2002, for hospitals under the medical assistance program:

..... \$ 3,035,278

f. To maintain the reimbursement rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "f", for the fiscal year July 1, 2001, through June 30, 2002, for home health care services under the medical assistance program:

..... \$ 2,108,279

g. To maintain the reimbursement rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "g", for the fiscal year July 1, 2001, through June 30, 2002, for critical access hospitals under the medical assistance program:

..... \$ 250,000

h. To maintain the expansion of home health care services and habilitative day care as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "h", under the medical assistance program for children with special needs:

..... \$ 1,975,496

i. To maintain the expansion of respite care services provided through home and community-based waivers as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "i", under the medical assistance program:

..... \$ 1,137,309

j. To maintain the reimbursement rate as established in 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph "j", for the fiscal year July 1, 2001, through June 30, 2002, to service providers under the purview of the department of human services:

..... \$ 545,630

2. To the department of human services to continue the supplementation of the children's health insurance program appropriation:

..... \$ 200,000

3. To the department of human services to continue the supplementation of the medical assistance appropriation:

..... \$ 7,500,000

4. To the department of human services to provide coverage under the medical assistance program to women who require treatment for breast or cervical cancer as provided in section 249A.3, subsection 2, paragraph "aa":

..... \$ 250,000

5. To the Iowa department of public health:

a. For the tobacco use prevention and control initiative, including efforts at the state and local levels, as provided in chapter 142A and for not more than the following full-time equivalent positions:

.....	\$	9,345,394
.....	FTEs	7.00

(1) The director of public health shall dedicate sufficient resources to promote and ensure retailer compliance with tobacco laws and ordinances relating to persons under 18 years of age, and shall prioritize the state’s compliance in the allocation of available funds to comply with 42 U.S.C. § 300X-26 and section 453A.2.

(2) Of the full-time equivalent positions funded under this section, two full-time equivalent positions shall be utilized to provide for enforcement of tobacco laws, regulations, and ordinances under a chapter 28D agreement entered into between the Iowa department of public health and the alcoholic beverages division of the department of commerce.

(3) Of the funds appropriated in this paragraph “a”, not more than \$525,759 shall be expended on administration and management of the program.

b. For additional substance abuse treatment under the substance abuse treatment program:

.....	\$	11,825,000
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(1) The department shall use funds appropriated in this paragraph “b” to enhance the quality of and to expand the capacity to provide 24-hour substance abuse treatment programs.

(2) The department shall use funds appropriated in this paragraph to expand the length of individual client substance abuse treatment plans, as necessary to reduce program recidivism.

(3) The department shall use funds appropriated in this paragraph to share research-based best practices for treatment with substance abuse treatment facilities.

(4) The department shall use funds appropriated in this paragraph to develop a results-based funding approach for substance abuse treatment services.

(5) The department shall use funds appropriated in this paragraph to develop a program to encourage individuals who are successfully managing their substance abuse problems to serve as role models.

c. For the healthy Iowans 2010 plan within the Iowa department of public health and for not more than the following full-time equivalent positions:

.....	\$	2,550,000
.....	FTEs	4.00

(1) Of the funds appropriated in this paragraph “c”, not more than \$1,250,000 shall be used for core public health functions, including home health care and public health nursing services, contracted through a formula by local boards of health, to enhance disease and injury prevention services.

(2) Of the funds appropriated in this paragraph “c”, not more than \$400,000 shall be used for the continuation and support of a coordinated system of delivery of trauma and emergency medical services.

(3) Of the funds appropriated in this paragraph “c”, not more than \$437,000 shall be used for the state poison control center.

(4) Of the funds appropriated in this paragraph “c”, not more than \$300,000 shall be used for the development of scientific and medical expertise in environmental epidemiology.

(5) Of the funds appropriated in this paragraph “c”, not more than \$81,500 shall be used to implement prevention strategies of healthy Iowans 2010 to address the leading causes of death in Iowa.

(6) Of the funds appropriated in this paragraph “c”, not more than \$81,500 shall be used for the childhood lead poisoning prevention program.

d. For provision of smoking cessation products as provided in this paragraph:

.....	\$	75,000
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The department shall award grants to free health clinics that are tax-exempt organizations pursuant to 26 U.S.C. § 501(c)(3) to fund the provision of smoking cessation products to patients. The department shall adopt a methodology for the awarding of the grants to the health clinics based upon the order of receipt of applications.

6. To the department of corrections:

- ..... \$ 610,000
- a. Of the funds appropriated in this subsection, \$127,217 is allocated to the second judicial district department of correctional services to replace expired federal funding for day programming.
- b. Of the funds appropriated in this subsection \$35,359 is allocated to the third judicial district department of correctional services to replace expired federal funding for the drug court program.
- c. Of the funds appropriated in this subsection, \$191,731 is allocated to the fourth judicial district department of correctional services for a drug court program.
- d. Of the funds appropriated in this subsection, \$255,692 is allocated to the fifth judicial district department of correctional services to replace expired funding for the drug court program.

Sec. 2. PURCHASE OF SERVICE CONTRACT PROVIDERS — REIMBURSEMENT INCREASE. There is appropriated from the healthy Iowans tobacco trust created in section 12.65 to the property tax relief fund created in section 426B.1 for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For assistance to the counties with limited county mental health, mental retardation, and developmental disabilities services fund balances which were selected in accordance with 2000 Iowa Acts, chapter 1221, section 3 to receive such assistance in the same amount provided during the fiscal year beginning July 1, 2000, and ending June 30, 2001, to pay reimbursement increases in accordance with 2000 Iowa Acts, chapter 1221, section 3:

..... \$ 146,750

Sec. 3. SAVINGS ACCOUNT FOR HEALTHY IOWANS — APPROPRIATIONS. There is appropriated from the savings account for healthy Iowans created within the tobacco settlement endowment fund created in section 12.65, Code 2001, to the following funds and entities for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

- 1. To the Iowa empowerment fund created in section 28.9 for deposit in the school ready children grants account and for distribution as provided in this subsection:
- ..... \$ 1,153,250

The moneys appropriated in this subsection shall be used along with other appropriations made to the Iowa empowerment fund and shall be distributed as provided in 2001 Iowa Acts, Senate File 535,<sup>1</sup> if enacted by the Seventy-ninth General Assembly, 2001 session.

- 2. To the Iowa department of public health to be used for the purpose designated and for not more than the following full-time equivalent positions:

For establishing and operating the substance abuse treatment facility for persons on probation as created in section 135.130 and providing staffing for the facility to be used exclusively to provide substance abuse treatment for persons on probation and under the supervision of the judicial district department of correctional services:

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

..... FTEs 60.00

- 3. Any moneys remaining in the savings account for healthy Iowans created within the tobacco settlement endowment fund created in section 12.65, Code 2001, on June 30, 2001, shall be transferred to the healthy Iowans tobacco trust created in section 12.65, as amended in this Act, to be used for the purposes specified in that section.

<sup>1</sup> Chapter 181 herein

Sec. 4. PRIOR YEAR NONREVERSION. Notwithstanding 2000 Iowa Acts, chapter 1221, section 5, moneys appropriated under 2000 Iowa Acts, chapter 1221, section 3, for purchase of service contract providers which is unexpended or unencumbered at the end of the fiscal year beginning July 1, 2000, and ending June 30, 2001, shall be deposited in the healthy Iowans tobacco trust created in section 12.65, as amended in this Act, to be used for the purposes specified in that section.

Sec. 5. Section 12.65, Code 2001, is amended to read as follows:

12.65 HEALTHY IOWANS TOBACCO SETTLEMENT ENDOWMENT FUND TRUST.

1. A healthy Iowans tobacco settlement endowment fund trust is created in the office of the treasurer of state. ~~After payment of litigation costs, all moneys paid to the state pursuant to the master settlement agreement, as defined in section 453C.1, Moneys transferred to the healthy Iowans tobacco trust from the endowment for Iowa's health account of the tobacco settlement trust fund established in section 12E.12 and appropriated or transferred from any other source shall be deposited in the fund healthy Iowans tobacco trust.~~

~~2. Any moneys paid to the state by the tobacco settlement authority pursuant to chapter 12E shall be deposited in the fund. Additionally, the state's share of the moneys which are not sold to the tobacco settlement authority pursuant to chapter 12E shall be deposited in the fund.~~

~~3.~~ 2. Moneys deposited in the fund healthy Iowans tobacco trust shall be used only in accordance with appropriations from the fund healthy Iowans tobacco trust for purposes related to health care, substance abuse treatment and enforcement, tobacco use prevention and control, and other purposes related to the needs of children, adults, and families in the state.

~~4. A savings account for healthy Iowans is created within the tobacco settlement endowment fund. Moneys, appropriated annually, shall be deposited in the account and shall be invested to provide an ongoing source of investment earnings.~~

~~5.~~ 3. Notwithstanding section 8.33, any unexpended balance in the fund healthy Iowans tobacco trust at the end of the fiscal year shall be retained in the fund trust. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the healthy Iowans tobacco settlement endowment fund, in the savings account for healthy Iowans, and in any other account established within the fund trust shall be credited to the healthy Iowans tobacco settlement endowment fund, to the savings account for healthy Iowans, or to any other account established, respectively trust.

~~6. For the purposes of this section, "litigation costs" are those costs itemized by the attorney general and submitted to and approved by the attorney general.~~

~~7.~~ 4. Moneys in the fund healthy Iowans tobacco trust shall be considered part of the general fund of the state for cash flow purposes only, provided any moneys used for cash flow purposes are returned to the fund trust by the close of each fiscal year.

Sec. 6. Section 135.11, Code 2001, is amended by adding the following new subsection:  
NEW SUBSECTION. 26. Establish and administer a substance abuse treatment facility pursuant to section 135.130.

### DIVISION XIII

Sec. 7. NEW SECTION. 135.130 SUBSTANCE ABUSE TREATMENT FACILITY FOR PERSONS ON PROBATION.

1. The director shall establish and operate a facility for the purpose of providing a structured treatment program for persons with a substance abuse problem who are on probation and under the supervision of a judicial district department of correctional services. The department shall enter into an agreement pursuant to chapter 28E with the department of corrections for assistance in establishing security for the facility. The department, in consultation with the department of corrections, shall adopt rules pursuant to chapter 17A to administer this section. The rules adopted shall include rules related to the treatment requirements of the program.

2. A substance abuse treatment facility advisory council is established within the department to advise and make recommendations to the director regarding the establishment and operation of a facility for persons with a substance abuse problem who are on probation and to assist with the implementation of treatment programs that are proven to be effective for offenders. The substance abuse treatment facility advisory council shall consist of the directors of the eight judicial district departments of correctional services and one representative each from the judicial branch, the Iowa department of public health, the department of corrections, and the governor's office of drug control policy.

3. The department, in consultation with the department of corrections and the advisory council, shall adopt rules pursuant to chapter 17A to establish and operate the facility.

Sec. 8. Section 136.3, subsection 7, Code 2001, 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 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 board of health.

Sec. 9. Section 249A.3, subsection 2, Code 2001, is amended by adding the following new paragraph after paragraph a, and renumbering the subsequent paragraph:

NEW PARAGRAPH. aa. As provided under the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000, Pub. L. No. 106-354, women who meet all of the following criteria:

(1) Are not described in 42 U.S.C. § 1396a(a)(10)(A)(i).

(2) Have not attained age sixty-five.

(3) Have been screened for breast and cervical cancer under the United States centers for disease control and prevention breast and cervical cancer early detection program established under 42 U.S.C. § 300k et seq., in accordance with the requirements of 42 U.S.C. § 300n, and need treatment for breast or cervical cancer. A woman is considered screened for breast and cervical cancer under this subparagraph if the woman is screened by any provider or entity, and the state grantee of the United States centers for disease control and prevention funds under Title XV of the federal Public Health Services Act has elected to include screening activities by that provider or entity as screening activities pursuant to Title XV of the federal Public Health Services Act. This screening includes but is not limited to breast or cervical cancer screenings or related diagnostic services provided by family planning or community health centers and breast cancer screenings funded by the Susan G. Komen foundation which are provided to women who meet the eligibility requirements established by the state grantee of the United States centers for disease control and prevention funds under Title XV of the federal Public Health Services Act.

(4) Are not otherwise covered under creditable coverage as defined in 42 U.S.C. § 300gg(c).

A woman who meets the criteria of this paragraph shall be presumptively eligible for medical assistance.

Sec. 10. Section 901B.1, subsection 1, paragraph c, Code 2001, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (5) A substance abuse treatment facility as established and operated by the Iowa department of public health.

Sec. 11. Section 901B.1, subsection 4, paragraph a, Code 2001, is amended to read as follows:

a. The district department of correctional services shall place an individual committed to it under section 907.3 to the sanction and level of supervision which is appropriate to the individual based upon a current risk assessment evaluation. Placements may be to levels two and three of the corrections continuum. The district department may, with the approval



of the Iowa department of public health and the department of corrections, place an individual in a level three substance abuse treatment facility established pursuant to section 135.130, to assist the individual in complying with a condition of probation. The district department may, with the approval of the department of corrections, place an individual in a level four violator facility established pursuant to section 904.207 only as a penalty for a violation of a condition imposed under this section.

Sec. 12. 2000 Iowa Acts, chapter 1221, section 1, subsection 1, paragraph c, is amended to read as follows:

c. To provide a cost-of-living adjustment for the fiscal year July 1, 2000, through June 30, 2001, of 5 percent to rehabilitative treatment and support services providers ~~under the medical assistance program~~ receiving child and family services reimbursements:

..... \$ 3,100,000

Sec. 13. REVERSION. Any moneys appropriated under this Act that are unexpended or unencumbered at the end of the fiscal year beginning July 1, 2001, and ending June 30, 2002, shall revert to the healthy Iowans tobacco trust.

Sec. 14. REFERENCES. References in this Act to the tobacco settlement endowment fund and to the savings account for healthy Iowans of the tobacco settlement endowment fund are references to the fund and the account pursuant to section 12.65, Code 2001, and, unless otherwise provided, appropriations from the fund and the account are references to appropriations of moneys in the fund and the account on or before June 30, 2001, and such moneys shall remain available for appropriation for the fiscal year beginning July 1, 2001, and ending June 30, 2002, as provided in this Act.

Sec. 15. EFFECTIVE DATES.

1. Section 3, subsection 3, of this Act relating to transfer of the moneys remaining in the savings account for healthy Iowans created within the tobacco settlement endowment fund created in section 12.65, Code 2001, on June 30, 2001, to the healthy Iowans tobacco trust, being deemed of immediate importance, takes effect upon enactment.

2. Section 4 of this Act, relating to nonreversion of funds remaining unencumbered or unobligated which were appropriated for the purchase of service contract providers, being deemed of immediate importance, takes effect upon enactment.

Sec. 16. CONTINGENT EFFECTIVE DATE. The section in this Act amending section 12.65 shall take effect only if 2001 Iowa Acts, Senate File 532<sup>2</sup> is enacted. If 2001 Iowa Acts, Senate File 532<sup>3</sup> is not enacted, the section in this Act amending section 12.65 shall not take effect and references in this Act to the healthy Iowans tobacco trust are references to the tobacco settlement endowment fund created in section 12.65, Code 2001. If 2001 Iowa Acts, Senate File 532<sup>4</sup> is not enacted, all moneys paid to the state pursuant to the master settlement agreement as defined in section 453C.1 shall be deposited in the tobacco settlement endowment fund created in section 12.65, Code 2001.

Approved May 29, 2001

<sup>2</sup> Chapter 164 herein  
<sup>3</sup> Chapter 164 herein  
<sup>4</sup> Chapter 164 herein

**CHAPTER 185**

**APPROPRIATIONS — INFRASTRUCTURE AND CAPITAL PROJECTS**

*H.F. 742*

**AN ACT** relating to and making appropriations to state departments and agencies, including the department of corrections, the department of cultural affairs, the department of economic development, the department of general services, the Iowa state fair foundation, the legislative council, the department of natural resources, the department of public defense, the department of public safety, the state board of regents, the state department of transportation, the office of treasurer of state, and the department of agriculture and land stewardship, and to the Iowa resources enhancement and protection fund, making related statutory changes, providing for alternative and contingent appropriations, and providing effective dates.

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

**DIVISION I  
REBUILD IOWA INFRASTRUCTURE FUND  
DEPARTMENT OF CORRECTIONS**

Section 1. There is appropriated from the rebuild Iowa infrastructure fund to the department of corrections for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement funds appropriated in 1998 Iowa Acts, chapter 1219, section 2, subsection 3, for construction of a 200-bed facility at the Iowa state penitentiary at Fort Madison:

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

Sec. 2. 2000 Iowa Acts, chapter 1225, section 2, unnumbered paragraph 2, is amended to read as follows:

The first \$300,000 of the amount appropriated in this subsection shall be allocated for community-based corrections projects in Council Bluffs. The next \$600,000 of the amount appropriated in this subsection shall be allocated for community-based corrections projects in the judicial district in which the city of Davenport is located. These moneys may be used by the department to enter into lease-purchasing agreements or the payment of rent for such projects.

Sec. 3. 1999 Iowa Acts, chapter 204, section 1, subsection 1, is amended to read as follows:

1. For purchase and planning, design, and construction of a 170-bed facility at the Iowa medical and classification center at Oakdale:

FY 1999-2000..... \$ 3,750,000

..... \$ 1,050,000

FY 2000-2001..... \$ 2,500,000

0

**DEPARTMENT OF CULTURAL AFFAIRS**

Sec. 4. There is appropriated from the rebuild Iowa infrastructure fund to the department of cultural affairs for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For historical site preservation grants, to be used for the restoration, preservation, and development of historical sites:

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

Historical site preservation grants shall only be awarded for projects which meet the definition of “vertical infrastructure” in section 8.57, subsection 5, paragraph “c”.

In making grants pursuant to this subsection, the department shall consider the existence and amount of other funds available to an applicant for the designated project. Each grant

awarded from moneys appropriated in this subsection shall not exceed \$100,000 per project. Not more than two grants may be awarded in each county.

2. For continuation of the project recommended by the Iowa battle flag advisory committee to stabilize the condition of the battle flag collection, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 150,000

DEPARTMENT OF EDUCATION

Sec. 5. There is appropriated from the rebuild Iowa infrastructure fund to the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, to be used for the purpose designated:

To provide resources for structural and technological improvements to local libraries, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 500,000

DEPARTMENT OF GENERAL SERVICES

Sec. 6. There is appropriated from the rebuild Iowa infrastructure fund to the department of general services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For relocation expenses associated with remodeling projects on the capitol complex, notwithstanding section 8.57, subsection 5, paragraph "c":

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

2. For routine maintenance of state buildings and facilities under the purview of the department, notwithstanding section 8.57, subsection 5, paragraph "c":

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

The department shall quarterly file a report with the legislative fiscal bureau detailing the use and disposition of funds appropriated in this subsection.

Sec. 7. There is appropriated from the rebuild Iowa infrastructure fund to the department of general services for the fiscal years designated, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the construction of a pedestrian bridge across Court avenue to provide pedestrian access across the capitol complex:

FY 2001-2002 ..... \$ 0  
FY 2002-2003 ..... \$ 650,000

2. For capitol interior restoration:

FY 2001-2002 ..... \$ 0  
FY 2002-2003 ..... \$ 2,700,000

Sec. 8. 1996 Iowa Acts, chapter 1218, section 13, subsection 2, paragraph d, subparagraph (2), is amended to read as follows:

(2) For the fiscal year beginning July 1, 1997, and ending June 30, 1998:

..... \$ 400,000  
..... 185,000

LEGISLATIVE COUNCIL

Sec. 9. 1999 Iowa Acts, chapter 204, section 14, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding anything to the contrary in this section of this Act or section 8.33, the moneys appropriated in section 7 of this Act shall remain available for the purposes designated until June 30, 2006.

DEPARTMENT OF PUBLIC DEFENSE

Sec. 10. There is appropriated from the rebuild Iowa infrastructure fund to the department of public defense for the fiscal years designated, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For construction of a new national guard armory at Estherville:

FY 2001-2002.....	\$	0
FY 2002-2003.....	\$	400,000
FY 2003-2004.....	\$	461,000

STATE BOARD OF REGENTS

Sec. 11. There is appropriated from the rebuild Iowa infrastructure fund to the state board of regents for the fiscal period beginning July 1, 2001, and ending June 30, 2004, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For construction of a new business college building at Iowa state university of science and technology:

FY 2001-2002.....	\$	0
FY 2002-2003.....	\$	6,700,000
FY 2003-2004.....	\$	0

2. For phase I of construction of the art building at the state university of Iowa:

FY 2001-2002.....	\$	0
FY 2002-2003.....	\$	7,910,000
FY 2003-2004.....	\$	3,653,000

3. For upgrading the steam distribution system at the university of northern Iowa:

FY 2001-2002.....	\$	0
FY 2002-2003.....	\$	4,320,000
FY 2003-2004.....	\$	4,390,000

The state board of regents is authorized to enter into contracts for the full cost of carrying out the projects listed in subsections 1 through 3, for which appropriations are made in those subsections. The state shall not be obligated for costs associated with contracts identified in this paragraph in excess of the funds appropriated by the general assembly.

Sec. 12. REVERSION. Notwithstanding section 8.33, moneys appropriated in this division of this Act shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2004, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 13. EFFECTIVE DATE. Sections 3, 8, and 9 of this division of this Act, amending 1999 Iowa Acts, chapter 204, section 1; 1996 Iowa Acts, chapter 1218, section 13, subsection 2, paragraph "d", subparagraph (2); and 1999 Iowa Acts, chapter 204, section 14, respectively, being deemed of immediate importance, take effect upon enactment.

DIVISION II  
 ENVIRONMENT FIRST FUND  
 DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Sec. 14. There is appropriated from the environment first fund to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the conservation reserve enhancement program to restore and construct wetlands for the purposes of intercepting tile line runoff, reducing nutrient loss, improving water quality, and enhancing agricultural production practices:

.....	\$	1,500,000
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2. For continuation of a program that provides multi-objective resource protections for flood control, water quality, erosion control, and natural resource conservation:

..... \$ 2,700,000

3. For continuation of a statewide voluntary farm management demonstration program to demonstrate the effectiveness and adaptability of emerging practices in agronomy that protect water resources and provide other environmental benefits:

..... \$ 850,000

4. For deposit in the alternative drainage system assistance fund created in section 159.29A to be used for purposes of supporting the alternative drainage system assistance program as provided in section 159.29B:

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

Of the amount appropriated in this subsection, \$300,000 shall be allocated to drainage district 176 to provide cost-share assistance for closing agricultural drainage wells and constructing alternative drainage systems in order to assist in raising the level of cost-share payments to 75 percent of the cost of the projects.

5. To provide financial assistance for the establishment of permanent soil and water conservation practices:

..... \$ 7,500,000

a. Not more than 5 percent of the moneys appropriated in this subsection may be allocated for cost-sharing to abate complaints filed under section 161A.47.

b. Of the moneys appropriated in this subsection, 5 percent shall be allocated for financial incentives to establish practices to protect watersheds above publicly owned lakes of the state from soil erosion and sediment as provided in section 161A.73.

c. Not more than 30 percent of a district's allocation of moneys as financial incentives may be provided for the purpose of establishing management practices to control soil erosion on land that is row-cropped, including but not limited to no-till planting, ridge-till planting, contouring, and contour strip-cropping as provided in section 161A.73.

d. The state soil conservation committee created in section 161A.4 may allocate moneys appropriated in this subsection to conduct research and demonstration projects to promote conservation tillage and nonpoint source pollution control practices.

e. The financial incentive payments may be used in combination with department of natural resources moneys.

6. To encourage and assist farmers in enrolling in the continuous sign-up federal conservation reserve program and work with them to enhance their revegetation efforts to improve water quality and habitat:

..... \$ 1,500,000

7. For deposit in the loess hills development and conservation fund created in section 161D.2:

..... \$ 750,000

Of the amount appropriated to the loess hills development and conservation fund in this subsection, \$500,000 shall be allocated to the hungry canyons account and \$250,000 shall be allocated to the loess hills alliance account.

8. For allocation to the southern Iowa conservation and development authority<sup>1</sup> for protection of road structures:

..... \$ 250,000

DEPARTMENT OF ECONOMIC DEVELOPMENT

Sec. 15. There is appropriated from the environment first fund to the department of economic development for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the brownfield redevelopment fund created in section 15.293 to provide assistance under the brownfield redevelopment program:

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

<sup>1</sup> Southern Iowa "development and conservation" authority probably intended

DEPARTMENT OF NATURAL RESOURCES

Sec. 16. There is appropriated from the environment first fund to the department of natural resources for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To provide local watershed managers with geographic information system data for their use in developing, monitoring, and displaying results of their watershed work:

..... \$ 195,000

2. For statewide coordination of volunteer efforts under the water quality and keepers of the land programs:

..... \$ 70,000

3. For continuing the establishment and operation of water quality monitoring stations:

..... \$ 2,500,000

4. For contracting to assist department staff with the review of national pollutant discharge elimination system permits:

..... \$ 180,000

5. For additional efforts to reduce the department's floodplain permit backlog:

..... \$ 180,000

6. For continuation of the waste tire abatement program:

..... \$ 500,000

7. To complete natural resource inventories and protection plans to identify and safeguard unique landforms and ecosystems:

..... \$ 125,000

8. For a community-based grant distribution program to provide funding for the planting of trees throughout the state:

..... \$ 250,000

9. For the dredging of lakes, including necessary preparation for dredging, in accordance with the department's classification of Iowa lakes restoration report:

..... \$ 500,000

10. For purposes of funding capital projects for the purposes specified in section 452A.79, and for expenditures for the local cost share grants to be used for capital expenditures to local governmental units for boating accessibility:

..... \$ 2,300,000

If the amount appropriated in this subsection exceeds the amount of marine fuel tax receipts deposited into the rebuild Iowa infrastructure fund for the fiscal year ending June 30, 2002, the difference between the amount appropriated in this subsection from the environment first fund and the actual marine fuel tax receipts deposited into the rebuild Iowa infrastructure fund is appropriated to the rebuild Iowa infrastructure fund from the accumulated balance of marine fuel tax receipts in the general fund of the state which is tracked by the department of management pursuant to section 8.60, subsection 14.<sup>2</sup>

11. For a contribution toward the development of the Lewis and Clark rural water system:

..... \$ 60,000

STATE DEPARTMENT OF TRANSPORTATION

\*Sec. 17. There is appropriated from the environment first fund to the state department of transportation for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For a grant to the Grundy county conservation board for a borrow pit recreational area project:

..... \$ 90,000

The grant made pursuant to this section shall be awarded on a matching basis of one dollar for every two dollars the Grundy county conservation board has raised. The moneys appropriated in this section shall not be used for administrative costs.\*

<sup>2</sup> Iowa Code section 8.60, subsection 13 probably intended

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

Sec. 18. 2000 Iowa Acts, chapter 1225, is amended by adding the following new section after section 28:

NEW SECTION. SEC. 28A. REVERSION. Notwithstanding section 8.33, moneys appropriated in sections 25 through 27 of this division of this Act shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purposes designated until the close of the fiscal year beginning July 1, 2003, or until the project for which the appropriation was made is completed, whichever is earlier.

RESOURCES ENHANCEMENT AND PROTECTION FUND

Sec. 19. Notwithstanding the amount of the standing appropriation from the general fund of the state under section 455A.18, subsection 3, there is appropriated from the environment first fund to the Iowa resources enhancement and protection fund, in lieu of the appropriation made in section 455A.18, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, to be allocated as provided in section 455A.19:

.....	\$	10,000,000
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Sec. 20. REVERSION.

1. Except as provided in subsection 2, and notwithstanding section 8.33, moneys appropriated in this division of this Act shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purposes designated until the close of the fiscal year beginning July 1, 2002, or until the project for which the appropriation was made is completed, whichever is earlier.

2. Notwithstanding section 8.33, moneys appropriated to the department of agriculture and land stewardship to provide financial assistance for the establishment of permanent soil and water conservation practices as provided in section 14, 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 fiscal year that begins July 1, 2004.

Sec. 21. EFFECTIVE DATE. Section 18 of this division of this Act, amending 2000 Iowa Acts, chapter 1225, being deemed of immediate importance, takes effect upon enactment.

DIVISION III  
TOBACCO SETTLEMENT TRUST FUND

Sec. 22. 2000 Iowa Acts, chapter 1225, section 10, is amended by striking the section.

Sec. 23. 2000 Iowa Acts, chapter 1225, section 15, subsections 1 through 3, are amended to read as follows:

1. For improvements to Gilman hall at Iowa state university of science and technology, including the replacement of the heating, ventilation, and air conditioning system, replacement of the fume hood exhaust system, and the construction of an addition to house mechanical equipment:

FY 2000-2001 .....	\$	8,500,000
FY 2001-2002 .....	\$	<del>2,500,000</del>
		<u>0</u>
FY 2002-2003 .....	\$	0

2. For continued renovation of the biological sciences facility at the state university of Iowa:

FY 2000-2001 .....	\$	4,400,000
FY 2001-2002 .....	\$	<del>7,300,000</del>
		<u>0</u>
FY 2002-2003 .....	\$	3,000,000

3. For construction of an addition to McCollum science hall at the university of northern Iowa:

FY 2000-2001.....	\$	2,700,000
FY 2001-2002.....	\$	5,800,000
		<u>0</u>
FY 2002-2003.....	\$	8,400,000

Sec. 24. 2000 Iowa Acts, chapter 1225, section 18, unnumbered paragraph 2, is amended to read as follows:

For deposit in the community attraction and tourism fund:

FY 2001-2002.....	\$	<del>12,500,000</del>
		<u>0</u>
FY 2002-2003.....	\$	12,500,000
FY 2003-2004.....	\$	12,500,000

Sec. 25. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the following departments and agencies for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF CORRECTIONS.

a. To supplement funds appropriated in 1998 Iowa Acts, chapter 1219, section 2, subsection 3, for construction of a 200-bed facility at the Iowa state penitentiary at Fort Madison:

.....	\$	6,400,000
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b. For costs associated with connecting the correctional facility at Oakdale to the city of Coralville water system:

.....	\$	100,000
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c. For the final phase of the state's share of the construction costs associated with the Mitchellville waste water treatment plant:

.....	\$	364,400
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d. For costs of entering into a lease-purchase agreement to connect the electrical system supporting the special needs unit at Fort Madison:

.....	\$	333,168
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2. DEPARTMENT OF ECONOMIC DEVELOPMENT.

For accelerated career education program capital projects at community colleges that are authorized under chapter 260G and that meet the definition of "vertical infrastructure" in section 8.57, subsection 5, paragraph "c":

.....	\$	2,500,000
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The moneys appropriated in this subsection shall be allocated equally among the community colleges in the state. If any portion of the equal allocation to a community college is not obligated or encumbered by April 1, 2002, the unobligated and unencumbered portions shall be available for use by other community colleges.

3. DEPARTMENT OF GENERAL SERVICES.

a. For major renovation and major repair needs including health, life, and fire safety needs, and for compliance with the federal Americans With Disabilities Act, for state-owned buildings and facilities:

.....	\$	11,500,000
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(1) Of the amount appropriated in this paragraph "a", up to \$375,000 may be used for costs associated with project management services in the division of design and construction of the department, notwithstanding section 8.57, subsection 5, paragraph "c".

(2) Of the amount appropriated in this paragraph "a", \$200,000 may be used for costs associated with the vertical infrastructure program, notwithstanding section 8.57, subsection 5, paragraph "c".



b. For the purchase of land and improvements to properties in the vicinity of the capitol complex:

..... \$ 200,000

Funds appropriated in this paragraph "b" may be expended to prepare purchased property for utilization by the state.

\*c. For the construction of a pedestrian bridge across Court avenue to provide pedestrian access across the capitol complex:

..... \$ 400,000\*

d. For capitol interior restoration:

..... \$ 1,700,000

e. For consideration for an option to purchase all or a portion of the following properties, notwithstanding section 8.57, subsection 5, paragraph "c": a 2.4-acre parcel located at the northwest corner of Pennsylvania avenue and Des Moines street, including a 26,319-square foot one-story masonry structure; a 0.17-acre site located at 1022 Des Moines street; a 2.2-acre site on the city block bounded by East Eleventh, East Twelfth, Des Moines, and Lyon streets, including an 11,058-square foot building; and a 7.5-acre parcel consisting of two contiguous city blocks bounded by East Twelfth, East Fourteenth, Des Moines, and Lyon streets, including five buildings:

..... \$ 500,000

The consideration for the option to purchase shall be applied to the contract purchase price in the event the option to purchase any or all of the properties described in this paragraph "e" is exercised. The option to purchase shall be for a period of at least one year beginning on or after July 1, 2001, and shall be exercised only after a specific appropriation by the general assembly for the purchase of all or a portion of the properties described in this paragraph "e".

f. For an appraisal, environmental assessment, and feasibility study of the properties described in paragraph "e":

..... \$ 250,000

4. IOWA STATE FAIR AUTHORITY.

For vertical infrastructure projects on the state fairgrounds:

..... \$ 500,000

For purposes of this subsection, "vertical infrastructure" means the same as defined in section 8.57, subsection 5, paragraph "c".

5. JUDICIAL BRANCH.

For construction of a new judicial building:

..... \$ 10,300,000

The judicial branch is authorized to enter into contracts for the full cost of the planning, design, and construction of a new judicial building for which appropriations are made in this subsection and in 1998 Iowa Acts, chapter 1223, section 8, and 1999 Iowa Acts, chapter 204, section 6. The state shall not be obligated for costs associated with contracts identified in this paragraph in excess of funds appropriated by the general assembly. Notwithstanding any provision of this Act to the contrary or section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year that begins July 1, 2004, shall revert at the close of that fiscal year. However, if the project for which the moneys are appropriated is completed in an earlier fiscal year, unencumbered or unobligated moneys shall revert at the close of that fiscal year.

6. DEPARTMENT OF NATURAL RESOURCES.

a. For continuation of the restore the outdoors program:

..... \$ 2,500,000

b. For costs associated with the planning and design of a premier destination park, notwithstanding section 8.57, subsection 5, paragraph "c", as follows:

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

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

7. DEPARTMENT OF PUBLIC DEFENSE.

- a. For maintenance and repair of national guard armories and facilities:  
..... \$ 700,000
- b. For construction of a new national guard armory at Estherville:  
..... \$ 400,000

\*8. DEPARTMENT OF PUBLIC SAFETY.

*For the location and purchase of land, a site survey, soil sampling, and site preparation for the construction of a new Iowa state patrol post in Mason City:*  
..... \$ 250,000\*

9. STATE BOARD OF REGENTS.

- a. For construction of a new business college building at Iowa state university of science and technology:  
..... \$ 4,200,000
- b. For phase I of construction of the art building at the state university of Iowa:  
..... \$ 4,453,000
- c. For upgrading the steam distribution system at the university of northern Iowa:  
..... \$ 3,990,000
- d. For utility system replacement at the Iowa school for the deaf:  
..... \$ 250,000
- e. For tuckpointing at the Iowa school for the deaf:  
..... \$ 185,000
- f. For upgrading the heating, ventilation, and air conditioning system at the Iowa braille and sight saving school:  
..... \$ 400,000
- g. For improvements to Gilman hall at Iowa state university of science and technology, including the replacement of the heating, ventilation, and air conditioning system, replacement of the fume hood exhaust system, and the construction of an addition to house mechanical equipment:  
..... \$ 2,500,000
- h. For continued renovation of the biological sciences facility at the state university of Iowa:  
..... \$ 7,300,000
- i. For construction of an addition to McCollum science hall at the university of northern Iowa:  
..... \$ 5,800,000

The state board of regents is authorized to enter into contracts for the full cost of carrying out the projects listed in paragraphs "a" through "c" and "g" through "i", for which appropriations are made in those paragraphs. The state shall not be obligated for costs associated with contracts identified in this paragraph in excess of the funds appropriated by the general assembly.

10. STATE DEPARTMENT OF TRANSPORTATION.

- a. For vertical infrastructure improvements at all 10 of the commercial air service airports within the state:  
..... \$ 1,000,000

One-half of the funds appropriated in this paragraph "a" shall be allocated equally between each commercial service airport, 40 percent of the funds shall be allocated based on the percentage that the number of enplaned passengers at each commercial service airport bears to the total number of enplaned passengers in the state during the previous fiscal year, and 10 percent of the funds shall be allocated based on the percentage that the air cargo tonnage at each commercial service airport bears to the total air cargo tonnage in the state during the previous fiscal year. In order for a commercial service airport to receive funding under this paragraph "a", the airport shall be required to submit applications for funding of specific projects to the department for approval by the state transportation commission.

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

b. For an aviation hangar grant program for improvements to and design and construction of hangars at general aviation airports within the state:

..... \$ 500,000

c. For acquiring, constructing, and improving recreational trails within the state:

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

Of the amount appropriated in this paragraph "c", \$500,000 shall be used for funding, on a matching basis, recreational trail projects, with priority given to completion of trail connections and sections between existing trails and parks within the established state recreational trails system. Such projects shall be matched by \$1 of private or other funds for each \$3 of state funds.

Of the amount appropriated in this paragraph "c", \$50,000 shall be allocated for planning and development of the Iowa portion of the Mississippi river trail.

11. OFFICE OF TREASURER OF STATE.

a. For county fair infrastructure improvements for distribution in accordance with chapter 174 to qualified fairs which belong to the association of Iowa fairs:

..... \$ 1,060,000

b. For deposit in the community attraction and tourism fund:

..... \$ 12,500,000

Payment of moneys from the appropriations in this section shall be made in a manner that does not adversely affect the tax-exempt status of any outstanding bonds issued by the tobacco settlement authority.

Sec. 26. CONTINGENT AND ALTERNATIVE APPROPRIATIONS — EFFECTIVE DATE. The appropriations in section 25 of this division of this Act shall be made from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund on or after the effective date of the receipt of tax-exempt bond proceeds by the tobacco settlement authority and the deposit of the proceeds of the tax-exempt bonds in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund. However, if any of the following occurs, the appropriations in section 25 of this division of this Act shall be made from the rebuild Iowa infrastructure fund to the extent they cannot be made from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund:

1. 2001 Iowa Acts, Senate File 532<sup>3</sup> is not enacted.
2. 2001 Iowa Acts, Senate File 532<sup>4</sup> is enacted, but the tobacco settlement authority established in chapter 12E does not securitize tobacco master settlement agreement payments sold to the authority pursuant to 2001 Iowa Acts, Senate File 532<sup>5</sup> prior to June 30, 2002.
3. 2001 Iowa Acts, Senate File 532<sup>6</sup> is enacted and the tobacco settlement authority securitizes tobacco master settlement agreement payments sold to the authority pursuant to 2001 Iowa Acts, Senate File 532,<sup>7</sup> but the bond proceeds are not received by the tobacco settlement authority and deposited in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund on or before June 30, 2002.
4. For any other reason, any of the amounts in section 25 cannot be paid from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund.

Sec. 27. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the following departments and agencies for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION.

For conversion of the Iowa communications network to asynchronous transfer mode technology, notwithstanding section 8.57, subsection 5, paragraph "c", and section 12E.12,

<sup>3</sup> Chapter 164 herein  
<sup>4</sup> Chapter 164 herein  
<sup>5</sup> Chapter 164 herein  
<sup>6</sup> Chapter 164 herein  
<sup>7</sup> Chapter 164 herein

subsection 1, paragraph “b”, subparagraph (1), as enacted by 2001 Iowa Acts, Senate File 532,<sup>8</sup> if enacted:

..... \$ 3,500,000

2. DEPARTMENT OF EDUCATION.

For allocation to the public broadcasting division for completion of the conversion to high-definition television, notwithstanding section 8.57, subsection 5, paragraph “c”, and section 12E.12, subsection 1, paragraph “b”, subparagraph (1), as enacted by 2001 Iowa Acts, Senate File 532,<sup>9</sup> if enacted:

..... \$ 2,400,000

Payment of moneys from the appropriations in this section shall be made in a manner that does not adversely affect the tax-exempt status of any outstanding bonds issued by the tobacco settlement authority.

Sec. 28. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the department of general services for the following fiscal years, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For the planning, design, and construction of a multipurpose laboratory facility:

FY 2001-2002.....	\$	16,670,000
FY 2002-2003.....	\$	16,670,000
FY 2003-2004.....	\$	16,660,000

The department is authorized to enter into contracts for the full cost of the project for which appropriations are made in this section. The state shall not be obligated for costs associated with contracts identified in this paragraph in excess of the funds appropriated by the general assembly.

Payment of moneys from the appropriations in this section shall be made in a manner that does not adversely affect the tax-exempt status of any outstanding bonds issued by the tobacco settlement authority.

Sec. 29. CONTINGENT APPROPRIATIONS — EFFECTIVE DATE. The appropriations in sections 27 and 28 of this division of this Act shall be made from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund on or after the effective date of the receipt of tax-exempt bond proceeds by the tobacco settlement authority and the deposit of the proceeds of the tax-exempt bonds in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund. However, if any of the following occurs, the appropriations in sections 27 and 28 of this division of this Act shall not be made from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund:

1. 2001 Iowa Acts, Senate File 532<sup>10</sup> is not enacted.
2. 2001 Iowa Acts, Senate File 532<sup>11</sup> is enacted, but the tobacco settlement authority established in chapter 12E does not securitize tobacco master settlement agreement payments sold to the authority pursuant to 2001 Iowa Acts, Senate File 532<sup>12</sup> prior to June 30, 2002.
3. 2001 Iowa Acts, Senate File 532<sup>13</sup> is enacted and the tobacco settlement authority securitizes tobacco master settlement agreement payments sold to the authority pursuant to 2001 Iowa Acts, Senate File 532,<sup>14</sup> but the bond proceeds are not received by the tobacco settlement authority and deposited in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund on or before June 30, 2002.
4. For any other reason, any of the amounts in section 27 cannot be paid from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund.

<sup>8</sup> Chapter 164 herein  
<sup>9</sup> Chapter 164 herein  
<sup>10</sup> Chapter 164 herein  
<sup>11</sup> Chapter 164 herein  
<sup>12</sup> Chapter 164 herein  
<sup>13</sup> Chapter 164 herein  
<sup>14</sup> Chapter 164 herein

Sec. 30. REVERSION. Notwithstanding section 8.33, moneys appropriated in this division of this Act shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2004, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 31. EFFECTIVE DATES. Sections 22 through 24 of this division of this Act, amending 2000 Iowa Acts, chapter 1225, sections 10, 15, and 18, being deemed of immediate importance, take effect upon enactment.

DIVISION IV  
STATUTORY CHANGES AND RELATED MATTERS

Sec. 32. Section 7E.5A, Code 2001, is amended to read as follows:

7E.5A BUILDINGS AND INFRASTRUCTURE — IDENTIFICATION OF MAINTENANCE FUNDING NEEDS.

1. For each new vertical infrastructure project ~~undertaken on or after July 1, 1997~~, the department in control of the vertical infrastructure shall identify and recommend to the general assembly funding sufficient to meet the projected maintenance, repair, and replacement needs of the vertical infrastructure.

2. A department shall, within its five-year capital budget request, identify specific instances where the failure to address deferred maintenance has had a negative impact on the department's ability to implement its mission and the proposed costs for annual routine and preventive maintenance based on an industry standard of one percent of the estimated replacement cost of the department's facilities. This subsection shall not apply to the state department of transportation.

3. A department requesting state moneys for a vertical infrastructure project shall actively pursue any federal funds for which the proposed project may be eligible and shall demonstrate such pursuit prior to receiving state moneys for the project. The department shall report the receipt of any such federal funds to the department of management and the legislative fiscal bureau in the manner described in section 8.23.

2-4. As used in this section, "vertical infrastructure" means the same as defined in section 8.57, subsection 5, paragraph "c".

Sec. 33. Section 8.57, subsection 5, paragraph e, Code 2001, is amended by adding the following new unnumbered paragraph:

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

Sec. 34. Section 12.73, Code 2001, is amended to read as follows:

12.73 VISION IOWA FUND MONEYS — ADMINISTRATIVE COSTS.

During the term of the vision Iowa program established in section 15F.302, ~~one two~~ hundred thousand dollars of the moneys deposited each fiscal year in the vision Iowa fund and appropriated for the vision Iowa program shall be allocated each fiscal year to the department of economic development for administrative costs incurred by the department for purposes of administering the vision Iowa program.

Sec. 35. Section 12.74, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 36. Section 12.84, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 37. Section 15F.202, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A city or county in the state or public organization may submit an application to the board for financial assistance for a project under the program. The assistance shall be provided only from funds, rights, and assets legally available to the board and shall be in the form of grants, loans, forgivable loans, and ~~loan-guarantees~~ credit enhancement and financing instruments. The application shall include, but not be limited to, the following information:

Sec. 38. Section 15F.202, subsection 3, Code 2001, is amended to read as follows:

3. A school district, in cooperation with a city or county, may submit a joint application for financial assistance for a project under the program. The assistance shall be provided only from funds, rights, and assets legally available to the board and shall be in the form of grants, loans, forgivable loans, and ~~loan-guarantees~~ credit enhancement and financing instruments. In addition to the information required in subsection 2, the application shall include a demonstration that the intended future use of the project shall be by both joint applicants.

Sec. 39. Section 15F.204, subsection 3, Code 2001, is amended to read as follows:

3. The fund shall be used to provide assistance only from funds, rights, and assets legally available to the board in the form of grants, loans, forgivable loans, and ~~loan-guarantees~~ credit enhancements and financing instruments under the community attraction and tourism program established in section 15F.202. An applicant under the community attraction and tourism program shall not receive financial assistance from the fund in an amount exceeding fifty percent of the total cost of the project.

Sec. 40. Section 15F.302, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A city or county or a public organization in the state may submit an application to the board for financial assistance for a project under the program. For purposes of this subsection, "public organization" means a nonprofit economic development organization or other nonprofit organization that sponsors or supports community or tourism attractions and activities. The financial assistance from the fund shall be provided only from funds, rights, and assets legally available to the board and shall be in the form of grants, loans, forgivable loans, pledges, and ~~guarantees~~ credit enhancements and financing instruments. The application shall include, but not be limited to, the following information:

Sec. 41. Section 15F.302, subsection 3, Code 2001, is amended to read as follows:

3. A school district, in cooperation with a city or county, may submit a joint application for financial assistance for a project under the program. The financial assistance shall be provided only from funds, rights, and assets legally available to the board and shall be in the form of grants, loans, forgivable loans, and ~~loan-guarantees~~ credit enhancements and financing instruments. In addition to the information required in subsection 2, the application shall include a demonstration that the intended future use of the project shall be by both joint applicants.

\*Sec. 42. NEW SECTION. 15F.303A PUBLIC ORGANIZATIONS — COMPETITIVE BIDDING OF PROJECTS.

A public organization, as defined in section 15F.302, subsection 2, whose application for financial assistance under the program is approved by the board shall advertise for sealed bids for the construction portion of the proposed project by publishing a notice to bidders as provided in this section. The notice to bidders shall be published in a newspaper of general circulation in the county where the construction is to be performed not less than twenty days but not more than forty-five days before the date for filing bids.

1. NOTICE TO BIDDERS. The notice to bidders must state the following items:

a. The time and place for filing sealed proposals.

b. The time and place sealed proposals will be opened and considered on behalf of the public organization.

c. The general nature of the project on which bids are requested.

d. In general terms when the work must be commenced and when it must be completed.

e. That each bidder shall accompany the bid with a bid security as prescribed in this paragraph and as specified by the public organization, as security that the successful bidder will enter into a contract for the work bid upon and will furnish after the award of contract a corporate surety bond, acceptable to the public organization, for the faithful performance of the contract, in an amount equal to one hundred percent of the amount of the contract. The bidder's security shall be in an amount fixed by the public organization, and shall be in the form of a cashier's or certified check drawn on a bank in Iowa or a bank chartered under the laws of the United States, or a certified share draft drawn on a credit union in Iowa or chartered under the laws of the United States, or the public organization may provide for a bidder's bond with corporate surety satisfactory to the public organization. The bid bond shall contain no conditions except for those provided in this subsection.

f. Any further information that the public organization deems pertinent.

The notice to bidders may provide that bids will be received for the furnishing of all labor and materials and furnishing or installing equipment under one contract, or for parts thereof in separate sections.

2. **BID SECURITY.** The amount of bid security must be fixed by the public organization prior to ordering publication of the notice to bidders and must equal at least five percent, but may not exceed ten percent of either the estimated total contract cost of the construction portion of the project, or the amount of each bid.

3. **AWARD OF CONTRACT.** The contract for the construction portion of the project must be awarded to the lowest responsible bidder. This subsection shall not be construed to prohibit a public organization in the award of a contract for the construction portion of a project from providing, an enhancement of payments upon early completion of the construction portion of the project if the availability of the enhancement payments is included in the notice to bidders, the enhancement payments are competitively neutral to potential bidders, and the total value of the enhancement payments does not exceed ten percent of the value of the contract.\*

Sec. 43. Section 15F.304, subsection 4, Code 2001, is amended to read as follows:

4. Upon review of the recommendations of the review committee, the board shall approve, defer, or deny the applications. If an application is approved, the board may enter into an agreement with the applicant to provide financial assistance authorized under section 15F.302.

Sec. 44. Section 99E.10, Code 2001, is amended by adding the following new subsection:

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

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

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

Sec. 45. NEW SECTION. 161D.8 ANNUAL REPORT — AUDIT.

1. The authority shall submit to the department of management, the legislative fiscal bureau, and the division of soil conservation of the department of agriculture and land stewardship, on or before December 31, annually, a report including information regarding all of the following:

- a. Its operations and accomplishments.
  - b. Its budget, receipts, and actual expenditures during the previous fiscal year, in accordance with classifications it establishes for its operating and capital accounts.
  - c. Its assets and liabilities at the end of the previous fiscal year and the status of reserve, special, and other funds.
  - d. A statement of its proposed and projected activities.
  - e. Recommendations to the governor and the general assembly, as deemed necessary.
  - f. Any other information deemed necessary.
2. The annual report shall identify performance goals of the authority, and clearly indicate the extent of progress, during the reporting period, in attaining these goals.
3. The fund shall be subject to an annual audit by the auditor of state.

Sec. 46. NEW SECTION. 161D.13 ANNUAL REPORT — AUDIT.

1. The southern Iowa development and conservation authority shall submit to the department of management, the legislative fiscal bureau, and the division of soil conservation of the department of agriculture and land stewardship, on or before December 31, annually, a report including information regarding all of the following:

- a. Its operations and accomplishments.
  - b. Its budget, receipts, and actual expenditures during the previous fiscal year, in accordance with classifications it establishes for its operating and capital accounts.
  - c. Its assets and liabilities at the end of the previous fiscal year and the status of reserve, special, and other funds.
  - d. A statement of its proposed and projected activities.
  - e. Recommendations to the governor and the general assembly, as deemed necessary.
  - f. Any other information deemed necessary.
2. The annual report shall identify performance goals of the authority, and clearly indicate the extent of progress, during the reporting period, in attaining these goals.
3. The southern Iowa development and conservation fund shall be subject to an annual audit by the auditor of state.

Sec. 47. 2001 Iowa Acts, House File 755,<sup>15</sup> section 30, if enacted, is amended to read as follows:

SEC. 30. Notwithstanding any contrary provision in section 45E.11, subsection 1, Code 2001, any ~~unencumbered or unobligated cash~~ balance in the groundwater protection fund and in any of the accounts within the groundwater protection fund ~~on June 30, 2001 not needed for expenditure in the fiscal year beginning July 1, 2001, and ending June 30, 2002,~~ shall be transferred to the general fund of the state.

Sec. 48. USE OF TAX-EXEMPT BOND PROCEEDS — REIMBURSEMENT.

1. Notwithstanding any provision of law to the contrary, moneys deposited in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund that are subject to an appropriation pursuant to section 12E.10, subsection 1, paragraph “b”, as amended by 2001 Iowa Acts, Senate File 532,<sup>16</sup> if enacted, shall remain in the tax-exempt bond proceeds restricted capital funds account until such time as costs are properly incurred and due for the purpose for which the appropriation was made. Payments for such properly incurred costs shall be made consistent with the requirements of federal law, chapter 12E, as amended by 2001 Iowa Acts, Senate File 532,<sup>17</sup> if enacted, and the sales agreement, as defined in section 12E.2.

<sup>15</sup> Chapter 176 herein

<sup>16</sup> Chapter 164, §11 herein

<sup>17</sup> Chapter 164 herein



2. Until bond proceeds are received by the tobacco settlement authority and deposited in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund, payments for costs incurred for projects for which appropriations are made in section 25 of this division<sup>18</sup> of this Act may be made from the rebuild Iowa infrastructure fund. Upon receipt of bond proceeds and deposit of the proceeds in the tax-exempt bond proceeds restricted capital funds account, such payments shall be reimbursed to the rebuild Iowa infrastructure fund from the tax-exempt bond proceeds restricted capital funds account, subject, however, to any applicable limitations on the use of the proceeds as provided in the Internal Revenue Code and this Act.

Sec. 49. EFFECTIVE DATE. The following provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

Sections 33 and 35 through 44 of this division of this Act, amending sections 8.57, 12.74, 12.84, 15F.202, 15F.204, and 15F.302, enacting section 15F.303A, and amending sections 15F.304, and 99E.10.

*Approved May 29, 2001, with exceptions noted.*

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit House File 742, an Act relating to and making appropriations to state departments and agencies, including the department of corrections, the department of cultural affairs, the department of economic development, the department of general services, the Iowa state fair foundation, the legislative council, the department of natural resources, the department of public defense, the department of public safety, the state board of regents, the state department of transportation, the office of treasurer of state, and the department of agriculture and land stewardship, and to the Iowa resources enhancement and protection fund, making related statutory changes, providing for alternative and contingent appropriations, and providing effective dates.

I am pleased that the general assembly chose, for the most part, to follow the recommendations of the infrastructure advisory committee and the recommendations included in the five year capital projects plan. There are, however, instances in House File 742 where those recommendations were not followed, funding levels were less than recommended, or projects were not funded in priority order.

For these reasons, House File 742 is, therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve Section 17 in its entirety. This item would appropriate \$90,000 for a borrow pit recreation project in Grundy County. This was not recommended by the infrastructure advisory committee; given that there are other funding resources for recreational projects within this budget, these resources should be dedicated to higher ranking state projects.

I am unable to approve the designated portion of Section 25, subsection 3, paragraph c. This item appropriated \$400,000 for the construction of a pedestrian bridge over Court Avenue on the Capitol complex. Given that projects with higher priority were not appropriated at the recommended level, these resources can be more appropriately used on these priorities in the next budget year.

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<sup>18</sup> Division III of this Act probably intended

I am unable to approve Section 25, subsection 8. This item appropriates \$250,000 for the site purchase and preparation for the construction of a new state patrol post in Mason City. While this project is included in the 5-year plan for capital projects, there are other higher priorities, including a utilities update to the Toledo juvenile facility, and unit renovations at the Anamosa reformatory.

I am unable to approve Section 42 in its entirety. This language, added in the last hours of the legislative session, would create a variety of notice and bidding requirements for local projects that receive Vision Iowa funding. These requirements, because they are effective immediately, would jeopardize projects that have already received financial commitments. It would be unwise to delay projects, which could add to their cost, by imposing these last minute requirements upon them.

The bulk of the funds and the responsibility for the success of these projects rest with local officials and taxpayers. I believe that they are in the best position to determine how projects will be bid and awarded.

For the above reasons, I hereby respectfully approve House File 742 with the exceptions noted above.

Sincerely,  
THOMAS J. VILSACK, Governor

**CHAPTER 186**

**APPROPRIATIONS — JUSTICE SYSTEM**

*S.F. 530*

**AN ACT** relating to and making appropriations to the justice system, making related statutory changes, and providing an effective date.

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

**DIVISION I  
REGULAR APPROPRIATIONS**

Section 1. DEPARTMENT OF JUSTICE. There is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the general office of attorney general for salaries, support, maintenance, miscellaneous purposes including odometer fraud enforcement, and for not more than the following full-time equivalent positions:

.....	\$	7,900,519
.....	FTEs	200.50

2. For the prosecuting attorney training program for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	304,943
.....	FTEs	6.00

3. In addition to the funds appropriated in subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1,

2001, and ending June 30, 2002, an amount not exceeding \$200,000 to be used for the enforcement of the Iowa competition law. The funds appropriated in this subsection are contingent upon receipt by the general fund of the state of an amount at least equal to the expenditure amount from either damages awarded to the state or a political subdivision of the state by a civil judgment under chapter 553, if the judgment authorizes the use of the award for enforcement purposes or costs or attorneys fees awarded the state in state or federal antitrust actions. However, if the amounts received as a result of these judgments are in excess of \$200,000, the excess amounts shall not be appropriated to the department of justice pursuant to this subsection.

4. In addition to the funds appropriated in subsection 1, there is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 2001, and ending June 30, 2002, an amount not exceeding \$400,000 to be used for public education relating to consumer fraud and for enforcement of section 714.16, and an amount not exceeding \$75,000 for investigation, prosecution, and consumer education relating to consumer and criminal fraud against older Iowans. The funds appropriated in this subsection are contingent upon receipt by the general fund of the state of an amount at least equal to the expenditure amount from damages awarded to the state or a political subdivision of the state by a civil consumer fraud judgment or settlement, if the judgment or settlement authorizes the use of the award for public education on consumer fraud. However, if the funds received as a result of these judgments and settlements are in excess of \$475,000, the excess funds shall not be appropriated to the department of justice pursuant to this subsection.

5. For victim assistance grants:

..... \$ 1,918,384

a. The funds appropriated in this subsection shall be used to provide grants to care providers providing services to crime victims of domestic abuse or to crime victims of rape and sexual assault.

b. Notwithstanding sections 8.33 and 8.39, 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 during the subsequent fiscal year for the same purpose, and shall not be transferred to any other program.

6. For the ODCP prosecuting attorney program and for not more than the following full-time equivalent positions:

..... \$ 132,037  
..... FTEs 2.00

7. The balance of the victim compensation fund established in section 915.94 may be used to provide salary and support of not more than 20.00 FTEs and to provide maintenance for the victim compensation functions of the department of justice. However, the balance of the fund may also be used to provide salary and support for an additional 2.00 FTEs if either 2001 Iowa Acts, Senate File 259<sup>1</sup> or 2001 Iowa Acts, House File 684<sup>2</sup> is enacted.

8. The department of justice shall submit monthly financial statements to the legislative fiscal bureau and the department of management containing all appropriated accounts in the same manner as provided in the monthly financial status reports and personal services usage reports of the department of revenue and finance. The monthly financial statements shall include comparisons of the moneys and percentage spent of budgeted to actual revenues and expenditures on a cumulative basis for full-time equivalent positions and available moneys.

9. The department of justice and the department of corrections shall assist local regional jail development authorities in issuing a report regarding the development of regional jails. The report shall include but is not limited to the following: the design capacity, policy considerations, governance and management structure, staffing needs, food services, estimated design and construction costs, and evaluating cost sharing between the state, participating counties, and other political subdivisions. The report is due on or before February 1, 2002.

<sup>1</sup> Chapter 84 herein  
<sup>2</sup> Not enacted

10. a. The department of justice, in submitting budget estimates for the fiscal year commencing July 1, 2002, pursuant to section 8.23, shall include a report of funding from sources other than amounts appropriated directly from the general fund of the state to the department of justice or to the office of consumer advocate. These funding sources shall include, but are not limited to, reimbursements from other state agencies, commissions, boards, or similar entities, and reimbursements from special funds or internal accounts within the department of justice. The department of justice shall report actual reimbursements for the fiscal year commencing July 1, 2000, and actual and expected reimbursements for the fiscal year commencing July 1, 2001.

b. The department of justice shall include the report required under paragraph "a", as well as information regarding any revisions occurring as a result of reimbursements actually received or expected at a later date, in a report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau. The department of justice shall submit the report on or before January 15, 2002.

11. For legal services for persons in poverty grants as provided in section 13.34:

.....	\$	670,000
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As a condition for accepting a grant funded pursuant to this subsection, an organization receiving a grant shall submit a report to the general assembly by January 1, 2002, concerning the use of any grants received during the previous fiscal year and efforts made by the organization to find alternative sources of revenue to replace any reductions in federal funding for the organization.

Sec. 2. DEPARTMENT OF JUSTICE — ENVIRONMENTAL CRIMES INVESTIGATION AND PROSECUTION — FUNDING. There is appropriated from the environmental crime fund of the department of justice, consisting of court-ordered fines and penalties awarded to the department arising out of the prosecution of environmental crimes, to the department of justice for the fiscal year beginning July 1, 2001, and ending June 30, 2002, an amount not exceeding \$20,000 to be used by the department, at the discretion of the attorney general, for the investigation and prosecution of environmental crimes, including the reimbursement of expenses incurred by county, municipal, and other local governmental agencies cooperating with the department in the investigation and prosecution of environmental crimes.

The funds appropriated in this section are contingent upon receipt by the environmental crime fund of the department of justice of an amount at least equal to the appropriations made in this section and received from contributions, court-ordered restitution as part of judgments in criminal cases, and consent decrees entered into as part of civil or regulatory enforcement actions. However, if the funds received during the fiscal year are in excess of \$20,000, the excess funds shall be deposited in the general fund of the state.

Notwithstanding section 8.33, moneys appropriated in this section that remain unexpended 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. 3. OFFICE OF CONSUMER ADVOCATE. There is appropriated from the general fund of the state to the office of consumer advocate of the department of justice for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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

.....	\$	2,690,067
.....	FTEs	32.00

Sec. 4. DEPARTMENT OF CORRECTIONS — FACILITIES. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning

July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the operation of adult correctional institutions, reimbursement of counties for certain confinement costs, and federal prison reimbursement, to be allocated as follows:

a. For the operation of the Fort Madison correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	27,742,137
.....	FTEs	525.50

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, employment of correctional officers and a part-time chaplain to provide religious counseling to inmates of a minority race, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	23,591,417
.....	FTEs	403.50

Moneys are provided within this appropriation for two full-time substance abuse counselors for the Luster Heights facility, for the purpose of certification of a substance abuse program at that facility.

c. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	21,564,956
.....	FTEs	337.80

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	23,023,286
.....	FTEs	392.25

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, employment of correctional officers and a full-time chaplain to provide religious counseling at the Oakdale and Mt. Pleasant correctional facilities, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	21,677,580
.....	FTEs	341.09

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	7,178,143
.....	FTEs	119.00

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	17,952,898
.....	FTEs	294.75

Moneys received by the department of corrections as reimbursement for services provided to the Clarinda youth corporation are appropriated to the department and shall be used for the purpose of operating the Clarinda correctional facility.

h. For the operation of the Mitchellville correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	12,229,337
.....	FTEs	236.00

i. For the operation of the Fort Dodge correctional facility, including salaries, support, maintenance, employment of correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	25,274,461
.....	FTEs	413.00

j. For reimbursement of counties for temporary confinement of work release and parole violators, as provided in sections 901.7, 904.908, and 906.17 and for offenders confined pursuant to section 904.513:

.....	\$	700,438
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k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

.....	\$	318,568
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The department of corrections shall use funds appropriated in this subsection to continue to contract for the services of a Muslim imam.

2. a. If the inmate tort claim fund for inmate claims of less than \$100 is exhausted during the fiscal year, sufficient funds shall be transferred from the institutional budgets to pay approved tort claims for the balance of the fiscal year. The warden or superintendent of each institution or correctional facility shall designate an employee to receive, investigate, and recommend whether to pay any properly filed inmate tort claim for less than the above amount. The designee's recommendation shall be approved or denied by the warden or superintendent and forwarded to the department of corrections for final approval and payment. The amounts appropriated to this fund pursuant to 1987 Iowa Acts, chapter 234, section 304, subsection 2, are not subject to reversion under section 8.33.

b. Tort claims denied at the institution shall be forwarded to the state appeal board for their consideration as if originally filed with that body. This procedure shall be used in lieu of chapter 669 for inmate tort claims of less than \$100.

3. It is the intent of the general assembly that the department of corrections shall timely fill correctional positions authorized for correctional facilities pursuant to this section.

Sec. 5. DEPARTMENT OF CORRECTIONS — ADMINISTRATION. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For general administration, including salaries, support, maintenance, employment of an education director and clerk to administer a centralized education program for the correctional system, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	2,315,093
.....	FTEs	37.18

a. The department shall monitor the use of the classification model by the judicial district departments of correctional services and has the authority to override a district department's decision regarding classification of community-based clients. The department shall notify a district department of the reasons for the override.

b. It is the intent of the general assembly that as a condition of receiving the appropriation provided in this subsection, the department of corrections shall not, except as otherwise provided in paragraph "c", enter into a new contract, unless the contract is a renewal of an existing contract, for the expenditure of moneys in excess of \$100,000 during the fiscal year beginning July 1, 2001, for the privatization of services performed by the department using state employees as of July 1, 2001, or for the privatization of new services by the department, without prior consultation with any applicable state employee organization affected by the proposed new contract and prior notification of the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system.

c. It is the intent of the general assembly that each lease negotiated by the department of corrections with a private corporation for the purpose of providing private industry employ-

ment of inmates in a correctional institution shall prohibit the private corporation from utilizing inmate labor for partisan political purposes for any person seeking election to public office in this state and that a violation of this requirement shall result in a termination of the lease agreement.

d. It is the intent of the general assembly that as a condition of receiving the appropriation provided in this subsection, the department of corrections shall not enter into a lease or contractual agreement pursuant to section 904.809 with a private corporation for the use of building space for the purpose of providing inmate employment without providing that the terms of the lease or contract establish safeguards to restrict, to the greatest extent feasible, access by inmates working for the private corporation to personal identifying information of citizens.

e. It is the intent of the general assembly that as a condition of receiving the appropriation provided in this subsection, the department of corrections shall not enter into any new agreement with a private for-profit agency or corporation for the purpose of transferring inmates under the custody of the department to a jail or correctional facility or institution in this state which is established, maintained, or operated by a private for-profit agency or corporation without prior approval by the general assembly.

2. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions at the correctional training center at Mt. Pleasant:

.....	\$	473,479
.....	FTEs	8.07

3. For educational programs for inmates at state penal institutions:

.....	\$	3,075,014
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It is the intent of the general assembly that moneys appropriated in this subsection shall be used solely for the purpose indicated and that the moneys shall not be transferred for any other purpose. In addition, it is the intent of the general assembly that the department shall consult with the community colleges in the areas in which the institutions are located to utilize moneys appropriated in this subsection to fund the high school completion, high school equivalency diploma, adult literacy, and adult basic education programs in a manner so as to maintain these programs at the institutions.

To maximize the funding for educational programs, the department shall establish guidelines and procedures to prioritize the availability of educational and vocational training for inmates based upon the goal of facilitating an inmate's successful release from the correctional institution.

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for expenditure only for the purpose designated in this subsection until the close of the succeeding fiscal year.

4. For the development of the departmentalwide Iowa corrections offender network (ICON) data system:

.....	\$	559,980
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5. The department of corrections shall submit a report to the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 2002, concerning the development and implementation of the Iowa corrections offender network (ICON) data system. The report shall include a description of the system and functions, a plan for implementation of the system, including a timeline, resource and staffing requirements for the system, and a current status and progress report concerning the implementation of the system. In addition, the report shall specifically address the ability of the system to receive and transmit data between prisons, community-based corrections district departments, the judicial branch, board of parole, the criminal and juvenile justice planning division of the department of human rights, the department of public safety, and other applicable governmental agencies. The report should include a detailed discussion of the cooperation with other state agencies and the judicial branch in the development and implementation of the system.

6. It is the intent of the general assembly that the department of corrections shall continue to operate the correctional farms under the control of the department at the same or greater level of participation and involvement as existed as of January 1, 2001, shall not enter into any rental agreement or contract concerning any farmland under the control of the department that is not subject to a rental agreement or contract as of January 1, 2001, without prior legislative approval, and shall further attempt to provide job opportunities at the farms for inmates. The department shall attempt to provide job opportunities at the farms for inmates by encouraging labor-intensive farming or gardening where appropriate, using inmates to grow produce and meat for institutional consumption, researching the possibility of instituting food canning and cook-and-chill operations, and exploring opportunities for organic farming and gardening, livestock ventures, horticulture, and specialized crops.

7. The department of corrections shall submit a report to the general assembly by January 1, 2002, concerning moneys recouped from inmate earnings for the reimbursement of operational expenses of the applicable facility during the fiscal year beginning July 1, 2000, for each correctional institution and judicial district department of correctional services. In addition, each correctional institution and judicial district department of correctional services shall continue to submit a report to the legislative fiscal bureau on a monthly basis concerning moneys recouped from inmate earnings pursuant to sections 904.702, 904.809, and 905.14.

**Sec. 6. JUDICIAL DISTRICT DEPARTMENTS OF CORRECTIONAL SERVICES.**

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be allocated as follows:

a. For the first judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 8,870,274

b. For the second judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 6,740,702

c. For the third judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 4,033,736

d. For the fourth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 3,829,927

e. For the fifth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 11,823,192

f. For the sixth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 8,941,214



g. For the seventh judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 5,157,571

h. For the eighth judicial district department of correctional services, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, the following amount, or so much thereof as is necessary:

..... \$ 5,033,178

i. For the department of corrections for the assistance and support of each judicial district department of correctional services, the following amount, or so much thereof as is necessary:

..... \$ 78,119

2. Each judicial district department of correctional services shall continue programs and plans established within that district to provide for intensive supervision, sex offender treatment, diversion of low-risk offenders to the least restrictive sanction available, job development, and expanded use of intermediate criminal sanctions.

3. The department of corrections shall continue to contract with a judicial district department of correctional services to provide for the rental of electronic monitoring equipment which shall be available statewide.

4. Each judicial district department of correctional services and the department of corrections shall continue the treatment alternatives to street crime programs established in 1989 Iowa Acts, chapter 225, section 9.

5. The governor's office of drug control policy shall consider federal grants made to the department of corrections for the benefit of each of the eight judicial district departments of correctional services as local government grants, as defined pursuant to federal regulations.

6. A drug court established in a judicial district department of correctional services shall only be offered to offenders if an adjudication of guilt has been entered, and felony offenses shall be given priority over misdemeanors.

7. The department of corrections and the eight judicial district departments of correctional services shall submit a combined comprehensive report on the violator program and the violator aftercare program to the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system and to the legislative fiscal bureau by December 1, 2001. *\*The report shall include a description of the program and each judicial district's criteria for admission to the violator program at the Newton correctional facility and the Iowa correctional institution for women, the number of beds in the program, and the number of offenders placed in the program for the fiscal years beginning July 1, 1999, and ending June 30, 2001. The report shall also contain actual expenditures related to the program for each fiscal year of the fiscal period beginning July 1, 1999, and ending June 30, 2001, the budgeted expenditures for each fiscal year of the fiscal period beginning July 1, 1999, and ending June 30, 2001, by revenue source, the characteristics of each offender including the offender's race and gender, the number of FTE positions used for the program, and quantitative measures analyzing the success of the program.\**

8. In addition to the requirements of section 8.39, the department of corrections shall not make an intradepartmental transfer of moneys appropriated to the department, unless notice of the intradepartmental transfer is given prior to its effective date to the legislative fiscal bureau. The notice shall include information on the department's rationale for making the transfer and details concerning the work load and performance measures upon which the transfers are based.

9. The department of corrections and the eight judicial district departments of correctional services shall submit a combined comprehensive report on the use of intermediate criminal sanctions program pursuant to chapter 901B to the cochairpersons and ranking

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

members of the joint appropriations subcommittee on the justice system, and to the legislative fiscal bureau by January 15, 2002. *\*The report shall include a description of the program and the criteria used for placement at each intermediate sanction level or sublevel of the corrections continuum within each district plan, the number of offenders placed at each intermediate sanction level or sublevel in each district for each fiscal year of the fiscal period beginning July 1, 1999, and ending June 30, 2001, the number of offenders expected to be placed in the program for the fiscal year beginning July 1, 2001, and ending June 30, 2002, and the capacity for each level and sublevel within the continuum. The report shall also contain actual expenditures related to the continuum for each fiscal year of the fiscal period beginning July 1, 1999, and ending June 30, 2001, the budgeted expenditures for each fiscal year of the fiscal period beginning July 1, 1999, and ending June 30, 2001, by revenue source, the characteristics of each offender including the offender's race and gender at each level and sublevel, the number of FTE positions working in positions related to the continuum, and quantitative measures analyzing the success of the program.\**

10. The department of corrections in cooperation with the second, third, fourth, and fifth judicial district departments of correctional services, shall implement procedures to provide continuing evaluation of the drug courts. The evaluation shall include a description of the two models currently being used by the judicial districts, a description of the program, criteria for admission, program capacity, number of offenders in the program by offense class, program expenditures, and quantitative outcome measures including successful completion and recidivism rates.

#### Sec. 7. CORRECTIONAL INSTITUTIONS — VOCATIONAL TRAINING.

1. The state prison industries board and the department of corrections shall continue the implementation of a plan to enhance vocational training opportunities within the correctional institutions listed in section 904.102, as provided in 1993 Iowa Acts, chapter 171, section 12. The plan shall provide for increased vocational training opportunities within the correctional institutions, including the possibility of approving community college credit for inmates working in prison industries. The department of corrections shall provide a report concerning the implementation of the plan to the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 2002.

2. It is the intent of the general assembly that each correctional facility make all reasonable efforts to maintain vocational education programs for inmates and to identify available funding sources to continue these programs. The department of corrections shall submit a report to the general assembly by January 1, 2002, concerning the efforts made by each correctional facility in maintaining vocational education programs for inmates.

3. The department of corrections shall submit a report on inmate labor to the general assembly, the cochairpersons, and the ranking members of the joint appropriations subcommittee on the justice system, and to the legislative fiscal bureau by January 15, 2002. The report shall specifically address the progress the department has made in implementing the requirements of section 904.701, inmate labor on capital improvement projects, community work crews, and private-sector employment.

4. Each month the department shall provide a status report regarding private-sector employment to the legislative fiscal bureau beginning on July 1, 2001. The report shall include the number of offenders employed in the private sector, the combined number of hours worked by the offenders, and the total amount of allowances, and the distribution of allowances pursuant to section 904.702, including any moneys deposited in the general fund of the state.

#### Sec. 8. STATE AGENCY PURCHASES FROM PRISON INDUSTRIES.

1. As used in this section, unless the context otherwise requires, "state agency" means the government of the state of Iowa, including but not limited to all executive branch depart-

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

ments, agencies, boards, bureaus, and commissions, the judicial branch, the general assembly and all legislative agencies, institutions within the purview of the state board of regents, and any corporation whose primary function is to act as an instrumentality of the state.

2. State agencies are hereby encouraged to purchase products from Iowa state industries, as defined in section 904.802, when purchases are required and the products are available from Iowa state industries.

3. State agencies shall submit to the legislative fiscal bureau by January 15, 2002, a report of the dollar value of products and services purchased from Iowa state industries by the state agency during the fiscal year beginning July 1, 2000, and ending June 30, 2001.

Sec. 9. STATE PUBLIC DEFENDER. There is appropriated from the general fund of the state to the office of the state public defender of the department of inspections and appeals for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, for the purposes designated:

..... \$ 34,607,759

The funds appropriated and full-time equivalent positions authorized in this section are allocated as follows:

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

..... \$ 14,793,660  
..... FTEs 202.00

2. For the fees of court-appointed attorneys for indigent adults and juveniles, in accordance with section 232.141 and chapter 815:

..... \$ 19,814,099

Sec. 10. IOWA LAW ENFORCEMENT ACADEMY. There is appropriated from the general fund of the state to the Iowa law enforcement academy for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, including jailer training and technical assistance, and for not more than the following full-time equivalent positions:

..... \$ 1,306,546  
..... FTEs 29.05

It is the intent of the general assembly that the Iowa law enforcement academy may provide training of state and local law enforcement personnel concerning the recognition of and response to persons with Alzheimer's disease.

2. The Iowa law enforcement academy may select at least five automobiles of the department of public safety, division of the Iowa state patrol, prior to turning over the automobiles to the state fleet administrator to be disposed of by public auction and the Iowa law enforcement academy may exchange any automobile owned by the academy for each automobile selected if the selected automobile is used in training law enforcement officers at the academy. However, any automobile exchanged by the academy shall be substituted for the selected vehicle of the department of public safety and sold by public auction with the receipts being deposited in the depreciation fund to the credit of the department of public safety, division of the Iowa state patrol.

Sec. 11. BOARD OF PAROLE. There is appropriated from the general fund of the state to the board of parole for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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

..... \$ 1,019,507  
..... FTEs 16.50

A portion of the funds appropriated in this section shall be used to continue a pilot program for probation violations in the sixth judicial district department of correctional services. Data shall be maintained to evaluate the pilot program.

Sec. 12. DEPARTMENT OF PUBLIC DEFENSE. There is appropriated from the general fund of the state to the department of public defense for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. MILITARY DIVISION

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

.....	\$	5,190,924
.....	FTEs	259.76

If there is a surplus in the general fund of the state for the fiscal year ending June 30, 2002, within 60 days after the close of the fiscal year, the military division may incur up to an additional \$500,000 in expenditures from the surplus prior to transfer of the surplus pursuant to section 8.57.

2. EMERGENCY MANAGEMENT DIVISION

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

.....	\$	1,051,608
.....	FTEs	25.25

Sec. 13. DEPARTMENT OF PUBLIC SAFETY. There is appropriated from the general fund of the state to the department of public safety for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the department’s administrative functions, including the criminal justice information system, and for not more than the following full-time equivalent positions:

.....	\$	2,404,533
.....	FTEs	39.80

2. For the division of criminal investigation and bureau of identification including the state’s contribution to the peace officers’ retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

.....	\$	11,931,266
.....	FTEs	233.50

Of the full-time equivalent positions authorized in this subsection, the division of criminal investigation may use 2.00 FTEs for the establishment of an elderly crime unit if federal funding is obtained. If federal funding is obtained and subsequently discontinued, the 2.00 FTEs shall be eliminated.

Riverboat enforcement costs shall be billed in accordance with section 99F.10, subsection 4. The costs shall be not more than the department’s estimated expenditures, including salary adjustment, for riverboat enforcement for the fiscal year.

The department of public safety, with the approval of the department of management, may employ no more than two special agents and four gaming enforcement officers for each additional riverboat regulated after July 1, 2001, and one special agent for each racing facility which becomes operational during the fiscal year which begins July 1, 2001. One additional gaming enforcement officer, up to a total of four per boat, may be employed for each riverboat that has extended operations to 24 hours and has not previously operated with a 24-hour schedule. Positions authorized in this paragraph are in addition to the full-time equivalent positions otherwise authorized in this subsection.

3. a. For the division of narcotics enforcement, including the state’s contribution to the peace officers’ retirement, accident, and disability system provided in chapter 97A in the

amount of 17 percent of the salaries for which the funds are appropriated, to meet federal fund matching requirements, and for not more than the following full-time equivalent positions:

.....	\$	3,501,690
.....	FTEs	61.00

b. For the division of narcotics enforcement for undercover purchases:

.....	\$	129,804
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4. a. For the state fire marshal’s office, including the state’s contribution to the peace officers’ retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	1,831,002
.....	FTEs	38.80

b. For the state fire marshal’s office, for fire protection services as provided through the state fire service and emergency response council as created in the department, and for not more than the following full-time equivalent positions:

.....	\$	606,460
.....	FTEs	12.00

5. For the capitol police division, including the state’s contribution to the peace officers’ retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated and for not more than the following full-time equivalent positions:

.....	\$	1,240,582
.....	FTEs	26.00

6. For the division of the Iowa state patrol of the department of public safety, for salaries, support, maintenance, workers’ compensation costs, and miscellaneous purposes, including the state’s contribution to the peace officers’ retirement, accident, and disability system provided in chapter 97A in the amount of 17 percent of the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

.....	\$	36,676,633
.....	FTEs	567.25

7. For costs associated with the maintenance of the automated fingerprint information system (AFIS):

.....	\$	239,743
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8. For deposit in the public safety law enforcement sick-leave benefit fund established under section 80.42, for all departmental employees eligible to receive benefits for accrued sick leave under the collective bargaining agreement:

.....	\$	288,139
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9. An employee of the department of public safety who retires after July 1, 2001, but prior to June 30, 2002, is eligible for payment of life or health insurance premiums as provided for in the collective bargaining agreement covering the public safety bargaining unit at the time of retirement if that employee previously served in a position which would have been covered by the agreement. The employee shall be given credit for the service in that prior position as though it were covered by that agreement. The provisions of this subsection shall not operate to reduce any retirement benefits an employee may have earned under other collective bargaining agreements or retirement programs.

10. For costs associated with the training and equipment needs of volunteer fire fighters and for not more than the following full-time equivalent positions:

.....	\$	573,154
.....	FTEs	1.00

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for expenditure only for the purpose designated in this subsection until the close of the succeeding fiscal year.

DIVISION II  
SUPPLEMENTAL APPROPRIATION

Sec. 14. SUPPLEMENTAL APPROPRIATION TO THE FORT MADISON CORRECTIONAL FACILITY. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2000, and ending June 30, 2001, the following amount, or so much thereof as is necessary, to be used for the purposes designated, in addition to the appropriation made for those purposes in 2000 Iowa Acts, chapter 1229, section 4:

For compliance at the Fort Madison correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

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

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 in subsequent fiscal years for the purposes specified in the section.

Sec. 15. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION III  
CODE CHANGES

Sec. 16. Section 18.120, Code 2001, is amended to read as follows:

18.120 REPLACEMENT FUND.

1. The state fleet administrator shall maintain a depreciation fund for the purchase of replacement motor vehicles and additions to the fleet. The state fleet administrator's records shall show the total funds deposited by and credited to each department or agency thereof. At the end of each month, the state fleet administrator shall render a statement to each state department or agency thereof for additions to the fleet and total depreciation credited to that department or agency. Such depreciation expense shall be paid by the state departments or agencies in the same manner as other expenses of such department are paid, and shall be deposited in the depreciation fund to the credit of the department or agency thereof. The funds credited to each department or agency thereof shall remain the property of the department or agency. However, at the end of each biennium, the state fleet administrator shall cause to revert to the fund from which it accumulated any unassigned depreciation.

2. The department of corrections is not obligated to pay the depreciation expense otherwise required by this section.

Sec. 17. NEW SECTION. 80.42 SICK LEAVE BENEFITS FUND.

1. A sick leave benefits fund is established in the office of the treasurer of state under the control of the department of public safety. The moneys annually credited to the fund are appropriated to the department to pay health and life insurance monthly premium costs for retired departmental employees and beneficiaries who are eligible to receive benefits for accrued sick leave under the collective bargaining agreement with the state police officers council or pursuant to section 70A.23.

2. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys credited to the sick leave benefits fund shall be credited to the sick leave benefits fund. Notwithstanding section 8.33, moneys credited to the sick leave benefits fund at the end of a fiscal year shall not revert to any other fund but shall remain in the fund for purposes of the fund.

3. Notwithstanding section 8.39, if funds are needed to pay monthly premium costs as provided for in subsection 1, sufficient funds may be transferred and credited to the sick leave benefits fund from any moneys appropriated to the department.

\*Sec. 18. Section 904.513, subsection 2, Code 2001, is amended to read as follows:

2. Upon request by the director a county shall provide temporary confinement for offenders allegedly violating the conditions of assignment to a program under this chapter, if space is

available in the county. The department shall negotiate a reimbursement rate with each county. The amount to be reimbursed shall be determined by multiplying the number of days a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. The average daily cost shall not include administrative support personnel costs as defined in the United States marshal's service cost sheet for detention services. A county holding offenders in jail due to insufficient space in a community residential facility shall be reimbursed as provided in this subsection. Payment shall be made upon submission of a ~~voucher~~ United States marshal's service cost sheet executed by the sheriff and approved by the director.\*

\*Sec. 19. Section 904.908, subsection 2, Code 2001, is amended to read as follows:

2. The Iowa department of corrections shall negotiate a reimbursement rate with each county for the temporary confinement of alleged violators of work release conditions who are in the custody of the director of the Iowa department of corrections or who are housed or supervised by the judicial district department of correctional services. The amount to be reimbursed shall be determined by multiplying the number of days a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. The average daily cost shall not include administrative support personnel costs as defined in the United States marshal's service cost sheet for detention services. Payment shall be made upon submission of a ~~voucher~~ United States marshal's service cost sheet executed by the sheriff and approved by the director of the Iowa department of corrections.\*

\*Sec. 20. Section 906.17, subsection 2, Code 2001, is amended to read as follows:

2. The Iowa department of corrections shall reimburse a county for the temporary confinement of alleged parole violators. The amount to be reimbursed shall be determined by multiplying the number of days confined by the average daily cost of confining a person in the county facility as negotiated by the department. The average daily cost shall not include administrative support personnel costs as defined in the United States marshal's service cost sheet for detention services. Payment shall be made upon submission of a ~~voucher~~ United States marshal's service cost sheet executed by the sheriff and approved by the director of the Iowa department of corrections.\*

Sec. 21. 1998 Iowa Acts, chapter 1101, section 15, subsection 2, as amended by 1999 Iowa Acts, chapter 202, section 25, and as amended by 2000 Iowa Acts, chapter 1229, section 25, is amended to read as follows:

2. a. There is appropriated from surcharge moneys received by the E911 administrator and deposited into the wireless E911 emergency communications fund, for each fiscal year in the fiscal period beginning July 1, 1998, and ending June 30, ~~2001~~ 2002, an amount not to exceed two hundred thousand dollars to be used for the implementation, support, and maintenance of the functions of the E911 administrator. The amount appropriated in this paragraph includes any amounts necessary to reimburse the division of emergency management of the department of public defense pursuant to paragraph "b".

b. Notwithstanding the distribution formula in section 34A.7A, as enacted in this Act, and prior to any such distribution, of the initial surcharge moneys received by the E911 administrator and deposited into the wireless E911 emergency communications fund, for each fiscal year in the fiscal period beginning July 1, 1998, and ending June 30, ~~2001~~ 2002, an amount is appropriated to the division of emergency management of the department of public defense as necessary to reimburse the division for amounts expended for the implementation, support, and maintenance of the E911 administrator, including the E911 administrator's salary.

Sec. 22. LEGISLATIVE STUDY — INVOLUNTARY HOSPITALIZATION AND INVOLUNTARY COMMITMENT PROCEEDINGS. The legislative council is requested to establish a study committee during the 2001 interim on issues relating to involuntary hospitalization including, but not limited to, both inpatient and outpatient commitment proceedings and

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

advanced directives. The study committee shall consist of legislator members of both political parties from both houses of the general assembly, representatives of the judicial branch and the department of corrections, counties, law enforcement personnel, including police officers and sheriffs, mental health consumers, mental health advocacy groups, including, but not limited to, representatives from the alliance for the mentally ill and mental health advocates, representatives from the Iowa department of public health, and representatives from the psychiatric and psychological services community.

*Approved May 30, 2001, with exceptions noted.*

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 530, an Act relating to and making appropriations to the justice system, making related statutory changes, and providing an effective date.

Senate File 530 is a bill I approve with great reluctance. Much of the progress made in the area of safe communities just last year has been eliminated. This will no doubt have a negative impact on the safety of the citizens of this state. Recently authorized narcotics agents, who along with other law enforcement personnel are on the front lines in this state fighting the battle of illegal drug markets, have been eliminated. Reductions in operational funding of criminal laboratory personnel as well as general criminal operations come at a time when the processing of criminal evidence and turnaround time is at a critical threshold. Delays and impacts will be felt throughout our criminal justice system. The magnitude of the reductions in the Iowa State Patrol will impact the safe travel and timely response to those in need while using our roads. This comes at a time when our roads are carrying the greatest volume of traffic ever!

Within the Department of Corrections budget, many efforts to reduce the demand for future prison growth, implemented during the previous legislative session have also been eliminated or greatly curtailed. The reduction of funding for new drug courts will continue the cycle of the nonviolent drug offenders. The previous legislative work of adding new Community Based Corrections client supervision personnel, whose funding was severely reduced in this bill, will not only impact the safety of citizens in this state, but these shortsighted decisions, as implemented, will also over burden an already understaffed Community Based Corrections system. Community Based Corrections will be very hard pressed not to impact even further the growing prison population, which has in the month of May, hit the highest level of incarceration in Iowa history. These demands will test and stretch beyond the level of reasonableness our correctional institutions resources given the general fund reduction of over \$6.0 million in funding from the previous year.

Additionally, under-funding in the area of the Indigent Defense legal representation system is also a budget decision that will no doubt need to be revisited during the next fiscal year. As quoted in the Des Moines Register editorial of 5/16/01: "The state public defenders' office, either with public defenders or private lawyers, must provide legal representation to the poor. It makes no sense to reduce the Indigent Defense Fund to \$19.8 million from the \$21.2 million. The state will have to somehow come up with additional money needed." These are shortsighted decisions; the people of Iowa expect more of their public servants. The budget I recommended included sound budgeting practices — investment decisions for future policy outcomes that would have this state preparing for tomorrow's challenges. We must be better prepared for the future, not just react to its problems.



Senate File 530 is therefore, approved on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the designated portion of Section 6, subsection 7 and the designated portion of Section 6, subsection 9. Both of these items require the Department of Corrections to re-create requested data back to 1999. The ability to manually collect the required data, given the cutbacks to the correctional system is very limited and would produce a report of marginal value. I have instructed the Department of Corrections to continue to make best efforts to respond to individual cases as needed.

I am unable to approve the items designated as Sections 18, 19, and 20 in their entirety. These sections involve the reimbursement of temporarily confining a person in a county facility for violations regarding OWI, prison work release, and parole. The proposed language, which intends to require the exclusion of administrative costs, would be a good start at addressing the specific costs to be included in the daily cost reimbursement. However, the proposed language is vague and the United States marshal's service cost sheet does not provide any definition of administrative support personnel costs. This provision may even markedly increase county confinement costs. The Department of Corrections has offered both a proposed bill and alternative clarifying language for consideration that involves paying a proportional share of daily direct security supervision costs. I have directed the Department of Corrections to negotiate further an acceptable daily reimbursement rate with each county.

For the above reasons, I hereby respectfully approve Senate File 530, with the exceptions noted above.

Sincerely,  
THOMAS J. VILSACK, Governor

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**CHAPTER 187**

**APPROPRIATIONS — ADMINISTRATION AND REGULATION**

*S.F. 531*

**AN ACT** relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, and other properly related matters.

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

Section 1. AUDITOR OF STATE. There is appropriated from the general fund of the state to the office of the auditor of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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

.....	\$	1,211,514
.....	FTEs	116.68

The auditor of state may retain additional full-time equivalent positions as is reasonable and necessary to perform governmental subdivision audits which are reimbursable pursu-

ant to section 11.20 or 11.21, to perform audits which are requested by and reimbursable from the federal government, and to perform work requested by and reimbursable from departments or agencies pursuant to section 11.5A or 11.5B. The auditor of state shall notify the department of management, the legislative fiscal committee, and the legislative fiscal bureau of the additional full-time equivalent positions retained.

Sec. 2. IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD. There is appropriated from the general fund of the state to the Iowa ethics and campaign disclosure board for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, for the purposes designated:

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

.....	\$	427,869
.....	FTEs	8.00

Sec. 3. DEPARTMENT OF COMMERCE. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. ADMINISTRATIVE SERVICES DIVISION

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

.....	\$	1,137,329
.....	FTEs	17.50

The administrative services division shall assess each division within the department of commerce and the office of consumer advocate within the department of justice a pro rata share of the operating expenses of the administrative services division. The pro rata share shall be determined pursuant to a cost allocation plan established by the administrative services division and agreed to by the administrators of the divisions and the consumer advocate. To the extent practicable, the cost allocation plan shall be based on the proportion of the administrative expenses incurred on behalf of each division and the office of consumer advocate. Each division and the office of consumer advocate shall include in its charges assessed or revenues generated, an amount sufficient to cover the amount stated in its appropriation, any state-assessed indirect costs determined by the department of revenue and finance, and the cost of services provided by the administrative services division. It is the intent of the general assembly that the director of the department of commerce shall review on a quarterly basis all out-of-state travel for the previous quarter for officers and employees of each division of the department if the travel is not already authorized by the executive council.

2. ALCOHOLIC BEVERAGES DIVISION

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

.....	\$	1,513,454
.....	FTEs	24.00

3. BANKING DIVISION

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

.....	\$	5,988,784
.....	FTEs	78.00

4. CREDIT UNION DIVISION

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

.....	\$	1,228,248
.....	FTEs	19.00

5. INSURANCE DIVISION

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

.....	\$	3,874,539
.....	FTEs	93.50

b. The insurance division may reallocate authorized full-time equivalent positions as necessary to respond to accreditation recommendations or requirements. The insurance division expenditures for examination purposes may exceed the projected receipts, refunds, and reimbursements, estimated pursuant to section 505.7, subsection 7, including the expenditures for retention of additional personnel, if the expenditures are fully reimbursable and the division first does both of the following:

(1) Notify the department of management, the legislative fiscal bureau, and the legislative fiscal committee of the need for the expenditures.

(2) File with each of the entities named in subparagraph (1) the legislative and regulatory justification for the expenditures, along with an estimate of the expenditures.

6. PROFESSIONAL LICENSING AND REGULATION DIVISION

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

.....	\$	818,311
.....	FTEs	11.00

7. UTILITIES DIVISION

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

.....	\$	6,034,571
.....	FTEs	75.00

b. The utilities division may expend additional funds, including funds for additional personnel, if those additional expenditures are actual expenses which exceed the funds budgeted for utility regulation and the expenditures are fully reimbursable. Before the division expends or encumbers an amount in excess of the funds budgeted for regulation, the division shall first do both of the following:

(1) Notify the department of management, the legislative fiscal bureau, and the legislative fiscal committee of the need for the expenditures.

(2) File with each of the entities named in subparagraph (1) the legislative and regulatory justification for the expenditures, along with an estimate of the expenditures.

Sec. 4. DEPARTMENT OF COMMERCE — PROFESSIONAL LICENSING AND REGULATION. There is appropriated from the housing improvement fund of the Iowa department of economic development to the division of professional licensing and regulation of the department of commerce for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	62,317
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Sec. 5. DEPARTMENT OF COMMERCE — PROFESSIONAL LICENSING AND REGULATION — LICENSE FEE REFUND.

1. As used in this section, "department of commerce, professional licensing boards" means the boards or commissions for the engineers and land surveyors under chapter 542B, accountants under chapter 542C, real estate brokers and salespersons under chapter 543B, real estate appraisers under 543D, architects under chapter 544A, and landscape architects under chapter 544B.

2. Notwithstanding the obligation to collect fees pursuant to the provisions of sections 542B.12, 542C.15, 543B.14, 543D.6, 544A.11, and 544B.14, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the professional licensing and regulation division may

refund all or a portion of these fees to the filer pursuant to rules established by the department of commerce, professional licensing boards. The decision of the division not to issue a refund under rules established by the department of commerce, professional licensing boards is final and not subject to review pursuant to the provisions of the Iowa administrative procedure Act.

Sec. 6. DEPARTMENT OF GENERAL SERVICES. There is appropriated from the general fund of the state to the department of general services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION

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

.....	\$	1,702,834
.....	FTEs	45.85

2. TERRACE HILL OPERATIONS

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

.....	\$	259,129
.....	FTEs	5.00

3. PROPERTY MANAGEMENT

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

.....	\$	4,010,028
.....	FTEs	114.00

4. RENTAL SPACE

For payment of lease or rental costs of buildings and office space at the seat of government as provided in section 18.12, subsection 9, notwithstanding section 18.16:

.....	\$	1,028,898
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5. UTILITY COSTS

For payment of utility costs:

.....	\$	2,207,926
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Notwithstanding sections 8.33 and 18.12, subsection 11, any excess funds appropriated for utility costs in this subsection shall not revert to the general fund of the state at the end of the fiscal year but shall remain available for expenditure for the purposes of this subsection during the fiscal year beginning July 1, 2002.

Sec. 7. REVOLVING FUNDS. There is appropriated from the designated revolving funds to the department of general services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CENTRALIZED PURCHASING

From the centralized purchasing permanent revolving fund established by section 18.9 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,059,022
.....	FTEs	17.95

2. CENTRALIZED PURCHASING — REMAINDER

The remainder of the centralized purchasing permanent revolving fund is appropriated for the payment of expenses incurred through purchases by various state departments and for contingencies arising during the fiscal year beginning July 1, 2001, and ending June 30, 2002, which are legally payable from this fund.

3. STATE FLEET ADMINISTRATOR

From the state fleet administrator revolving fund established by section 18.119 for sala-

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

.....	\$	847,776
.....	FTEs	16.75

4. STATE FLEET ADMINISTRATOR — REMAINDER

The remainder of the state fleet administrator revolving fund is appropriated for the purchase of ethanol blended fuels and other fuels specified in section 18.115, subsection 5, oil, tires, repairs, and all other maintenance expenses incurred in the operation of state-owned motor vehicles and for contingencies arising during the fiscal year beginning July 1, 2001, and ending June 30, 2002, which are legally payable from this fund.

5. CENTRALIZED PRINTING

From the centralized printing permanent revolving fund established by section 18.57 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	1,098,927
.....	FTEs	27.30

6. CENTRALIZED PRINTING — REMAINDER

The remainder of the centralized printing permanent revolving fund is appropriated for the expense incurred in supplying paper stock, offset printing, copy preparation, binding, distribution costs, original payment of printing and binding claims and contingencies arising during the fiscal year beginning July 1, 2001, and ending June 30, 2002, which are legally payable from this fund.

Sec. 8. GOVERNOR AND LIEUTENANT GOVERNOR. There is appropriated from the general fund of the state to the offices of the governor and the lieutenant governor for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE

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

.....	\$	1,418,735
.....	FTEs	17.25

2. TERRACE HILL QUARTERS

For salaries, support, maintenance, and miscellaneous purposes for the governor's quarters at Terrace Hill, and for not more than the following full-time equivalent positions:

.....	\$	110,455
.....	FTEs	3.00

3. ADMINISTRATIVE RULES COORDINATOR

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

.....	\$	143,117
.....	FTEs	3.00

4. NATIONAL GOVERNORS ASSOCIATION

For payment of Iowa's membership in the national governors association:

.....	\$	70,030
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5. STATE-FEDERAL RELATIONS

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

.....	\$	279,576
.....	FTEs	3.00

Sec. 9. DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year

beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. ADMINISTRATION DIVISION

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

.....	\$	573,427
.....	FTEs	21.00

2. AUDITS DIVISION

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

.....	\$	480,567
.....	FTEs	12.00

3. APPEALS AND FAIR HEARINGS DIVISION

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

.....	\$	514,668
.....	FTEs	30.00

4. INVESTIGATIONS DIVISION

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

.....	\$	1,054,636
.....	FTEs	40.00

5. HEALTH FACILITIES DIVISION

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

.....	\$	2,473,611
.....	FTEs	108.00

6. INSPECTIONS DIVISION

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

.....	\$	877,970
.....	FTEs	15.00

7. EMPLOYMENT APPEAL BOARD

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

.....	\$	35,091
.....	FTEs	15.00

The employment appeal board shall be reimbursed by the labor services division of the department of workforce development for all costs associated with hearings conducted under chapter 91C, related to contractor registration. The board may expend, in addition to the amount appropriated under this subsection, additional amounts as are directly billable to the labor services division under this subsection and to retain the additional full-time equivalent positions as needed to conduct hearings required pursuant to chapter 91C.

8. STATE FOSTER CARE REVIEW BOARD

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

.....	\$	799,362
.....	FTEs	19.00

The department of human services, in coordination with the state foster care review board and the department of inspections and appeals, shall submit an application for funding available pursuant to Title IV-E of the federal Social Security Act for claims for state foster care review board administrative review costs.

Sec. 10. RACETRACK REGULATION. There is appropriated from the general fund of the state to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for the regulation of pari-mutuel racetracks, and for not more than the following full-time equivalent positions:  
..... \$ 2,145,812  
..... FTEs 25.38

Of the funds appropriated in this section, \$85,576 shall be used to conduct an extended harness racing season.

Sec. 11. EXCURSION BOAT REGULATION. There is appropriated from the general fund of the state to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for administration and enforcement of the excursion boat gambling laws, and for not more than the following full-time equivalent positions:  
..... \$ 1,628,440  
..... FTEs 30.37

Sec. 12. USE TAX APPROPRIATION. There is appropriated from the use tax receipts collected pursuant to sections 423.7 and 423.7A prior to their deposit in the road use tax fund pursuant to section 423.24, to the appeals and fair hearings division of the department of inspections and appeals for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:  
..... \$ 1,150,421

Sec. 13. DEPARTMENT OF MANAGEMENT. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:  
..... \$ 2,260,531  
..... FTEs 32.00

2. STATEWIDE PROPERTY TAX ADMINISTRATION

For salaries, support, and miscellaneous purposes, and for not more than the following full-time equivalent positions:  
..... \$ 90,078  
..... FTEs 1.00

Sec. 14. ROAD USE TAX APPROPRIATION. There is appropriated from the road use tax fund to the department of management for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:  
..... \$ 56,000

Sec. 15. DEPARTMENT OF PERSONNEL. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 2001, and

ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, including the filing of quarterly reports as required in this section:

1. ADMINISTRATION AND PROGRAM OPERATIONS

For salaries, support, maintenance, and miscellaneous purposes for the director’s staff, research, communications and workforce planning services, data processing, and financial services, and for not more than the following full-time equivalent positions:

.....	\$	1,591,023
.....	FTEs	31.00

2. CUSTOMER SERVICE AND BENEFITS MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes for customer information and support services, employment law and labor relations, training and benefit programs, and for not more than the following full-time equivalent positions:

.....	\$	2,462,930
.....	FTEs	60.51

Any funds received by the department for workers’ compensation purposes shall be used only for the payment of workers’ compensation claims and administrative costs.

It is the intent of the general assembly that members of the general assembly serving as members of the deferred compensation advisory board shall be entitled to receive per diem and necessary travel and actual expenses pursuant to section 2.10, subsection 5, while carrying out their official duties as members of the board.

Sec. 16. READY TO WORK PROGRAM COORDINATOR. There is appropriated from the surplus funds in the long-term disability reserve fund and the workers’ compensation trust fund to the department of personnel for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the salary, support, and miscellaneous expenses for the ready to work program and coordinator:

.....	\$	89,416
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The moneys appropriated pursuant to this section shall be taken in equal proportions from the long-term disability reserve fund and the workers’ compensation trust fund.

Sec. 17. IPERS. There is appropriated from the Iowa public employees’ retirement system fund to the department of personnel for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE

For salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees’ retirement system division and for not more than the following full-time positions:

.....	\$	7,998,070
.....	FTEs	88.04

2. INVESTMENT PROGRAM STAFFING

It is the intent of the general assembly that the Iowa public employees’ retirement system division employ sufficient staff within the appropriation provided in this section to meet the developing requirements of the investment program.

Sec. 18. PRIMARY ROAD FUND APPROPRIATION. There is appropriated from the primary road fund to the department of personnel for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

.....	\$	410,100
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Sec. 19. ROAD USE TAX FUND APPROPRIATION. There is appropriated from the road use tax fund to the department of personnel for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

..... \$ 66,760

Sec. 20. STATE WORKERS' COMPENSATION CLAIMS. There is appropriated from the general fund of the state to the department of personnel for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For distribution, subject to approval of the department of management, to various state departments to fund the premiums for paying workers' compensation claims which are assessed to and collected from the state department by the department of personnel based upon a rating formula established by the department of personnel:

..... \$ 500,000

Notwithstanding section 8.39, subsections 1, 3, and 4, the department of management may allocate the premium appropriated in this section to the appropriate offices, divisions, or subdivisions within each state department as necessary to pay workers' compensation premiums as recommended by the department of personnel.

The premiums collected by the department of personnel shall be segregated into a separate workers' compensation fund in the state treasury to be used for payment of state employees' workers' compensation claims. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining in this workers' compensation fund at the end of the fiscal year shall not revert but shall be available for expenditure for purposes of the fund for subsequent fiscal years.

Any funds received by the department of personnel for workers' compensation purposes other than funds appropriated in this section shall be used for the payment of workers' compensation claims and administrative costs.

Sec. 21. DEPARTMENT OF REVENUE AND FINANCE. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, and for not more than the following full-time equivalent positions used for the purposes designated in subsections 1 through 3:

..... FTEs 500.60

1. COMPLIANCE

For salaries, support, maintenance, and miscellaneous purposes:

..... \$ 10,525,794

Of the funds appropriated pursuant to this subsection, \$151,108 shall be used to pay the direct costs of compliance related to the collection and distribution of local sales and services taxes imposed pursuant to chapters 422B and 422E.

2. STATE FINANCIAL MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

..... \$ 10,837,208

Of the funds appropriated pursuant to this subsection, \$188,085 shall be used to pay the direct costs of state financial management related to the collection and distribution of local sales and services taxes imposed pursuant to chapters 422B and 422E.

3. INTERNAL RESOURCES MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

..... \$ 5,885,941

Of the funds appropriated pursuant to this subsection, \$60,807 shall be used to pay the direct costs of internal resources management related to the collection and distribution of local sales and services taxes imposed pursuant to chapters 422B and 422E.

4. COLLECTION COSTS AND FEES

For payment of collection costs and fees pursuant to section 422.26:

..... \$ 55,610

5. STATEWIDE PROPERTY TAX ADMINISTRATION

For salaries, support, and miscellaneous purposes:

..... \$ 62,250

The director of revenue and finance shall prepare and issue a state appraisal manual and the revisions to the state appraisal manual as provided in section 421.17, subsection 18, without cost to a city or county.

Sec. 22. LOTTERY. There is appropriated from the lottery fund to the department of revenue and finance for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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

..... \$ 8,443,058

..... FTEs 117.00

Sec. 23. MOTOR VEHICLE FUEL TAX APPROPRIATION. There is appropriated from the motor fuel tax fund created by section 452A.77 to the department of revenue and finance for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for administration and enforcement of the provisions of chapter 452A and the motor vehicle use tax program:

..... \$ 1,017,849

Sec. 24. SECRETARY OF STATE. There is appropriated from the general fund of the state to the office of the secretary of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION AND ELECTIONS

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

..... \$ 755,234

..... FTEs 10.00

It is the intent of the general assembly that the state department or state agency which provides data processing services to support voter registration file maintenance and storage shall provide those services without charge.

*\*Of the moneys appropriated in this subsection, not more than \$2,500 shall be used to pay the expenses of the Marshall county deputy auditor to serve on a task force for elections reform for the elections center. The Marshall county deputy auditor shall show proof of expense incurred to the secretary of state to receive reimbursement.\**

2. BUSINESS SERVICES

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

..... \$ 1,532,728

..... FTEs 32.00

3. DECENNIAL REDISTRICTING

For costs associated with decennial redistricting:

..... \$ 25,000

Sec. 25. Notwithstanding the requirement in section 9.6, that the secretary of state publish in odd-numbered years the Iowa official register, the secretary of state shall not

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

publish the Iowa official register in the 2001 calendar year. Any references in the Code to the distribution and contents of the Iowa official register shall not apply to the 2001 and 2002 calendar years.

Sec. 26. SECRETARY OF STATE FILING FEES REFUND. Notwithstanding the obligation to collect fees pursuant to the provisions of section 490.122, subsection 1, paragraphs "a" and "s" and section 504A.85, subsections 1 and 9, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the secretary of state may refund these fees to the filer pursuant to rules established by the secretary of state. The decision of the secretary of state not to issue a refund under rules established by the secretary of state is final and not subject to review pursuant to the provisions of the Iowa administrative procedure Act.

Sec. 27. TREASURER. There is appropriated from the general fund of the state to the office of treasurer of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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

.....	\$	865,580
.....	FTEs	25.80

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

Sec. 28. 2001 Iowa Acts, House File 413,<sup>1</sup> section 2, if enacted, is amended to read as follows:

SEC. 2. SURPLUS FUNDS TRANSFERRED TO THE ENDOWMENT FOR IOWA'S HEALTH ACCOUNT.

1. Notwithstanding section 8.55, subsection 2, any moneys in excess of the maximum balance in the economic emergency fund after the distribution of the surplus in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2000, shall not be transferred to the general fund of the state but shall be transferred to the endowment for Iowa's health account of the tobacco settlement trust fund. The amount transferred under this subsection shall not exceed forty million dollars. in the following order as follows:

a. The first one hundred sixty-three million eight hundred thousand dollars to the general fund of the state.

b. The next forty million dollars to the endowment for Iowa's health account of the tobacco settlement trust fund.

c. The remaining amount to the general fund of the state.

2. Notwithstanding section 8.55, subsection 2, any moneys in excess of the maximum balance in the economic emergency fund after the distribution of the surplus in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2001, shall not be transferred to the general fund of the state but shall be transferred to the endowment for Iowa's health account of the tobacco settlement trust fund. The amount transferred under this subsection shall not exceed the difference between forty million dollars and the amount transferred to the endowment for Iowa's health account pursuant to subsection 1.

3. This section is contingent upon the establishment of the endowment for Iowa's health account of the tobacco settlement trust fund by 2001 Iowa Acts, Senate File 532,<sup>2</sup> if enacted.

Approved May 30, 2001, with exception noted.

THOMAS J. VILSACK, Governor

<sup>1</sup> Chapter 177 herein

<sup>2</sup> Chapter 164 herein

Dear Mr. Secretary:

I hereby transmit Senate File 531, an Act relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, and other properly related matters.

Basic to any successful organization are core functions that allow the organization to operate smoothly and efficiently. Iowa citizens expect their taxes to be accurately calculated and refunds issued in a timely fashion, businesses expect corporate filings and liens to be processed, visitors expect the Capitol and other state facilities to be safe and properly maintained, citizens expect that they can do business with their government in a way that is convenient to them, and taxpayers expect that their tax dollars are being used legally and properly.

These are all legitimate expectations, and I am troubled that the Legislature's intentional underfunding of the core services of state government is threatening its ability to respond to its citizen customers. No successful business would cut budgets that support its core customers. That, however, will be the outcome from the unwise cuts contained in this budget bill.

There are many examples of the impact of this decision. For example, there will be fewer employees to process state income tax refunds and answer taxpayers' questions, fewer opportunities for departments to provide services on-line, less maintenance of state buildings and facilities, inability to timely maintain the statewide voter registration system increasing the risk for voter error and fraud, and slower processing of business filings potentially impacting the formation of new businesses in our State. These shortsighted cuts produce long term impacts and inefficiencies.

I am even more troubled by the lack of sound financial practice contained within this bill. The Legislature did not provide the resources necessary to carry out even the most fundamental functions, and as a result, they have passed a budget riddled with bad budget practices. These unwise choices will cost the state more money in the future — rather than making cuts, the Legislature has only set the state up for greater expense next year and following years.

For example, my budget provided \$1.8 million to clean up a federal claim against the State for overbilling of technology services that dates back to the Branstad administration. By not resolving this issue, we risk having additional penalties and interest charged to the state by the federal government. The Legislature provided no funds to fix this problem. My budget provided \$1.7 million to ensure adequate funding for worker's compensation claims, but the Legislature provided just \$500,000 for this; it is likely that this fund will literally run out of money as a result — meaning that the State cannot pay its legal obligations. Likewise, the Legislature underfunded the appropriation to the Department of General Services to pay for contracted rental space — another case where the Legislature refuses to accept reality and make the funds available to pay the State's contractual obligations.

These budget gimmicks are nothing more than a charade that passes off the tough budget decisions to somebody else. The Legislature has claimed that its deeper budget cuts were necessary to "solve" the budget problems now, but in reality, the above listed "cuts" are illusory and simply pass on the problem — in some cases with additional costs as well.

For these reasons I reluctantly approve Senate File 531 on this date with the following exception, which I hereby disapprove.

I am unable to approve Section 24, subsection 1, unnumbered paragraph 3 in its entirety.

This proposed language places the responsibility of paying county expenses in the budget of the Secretary of State without adding any additional funding. The Marshall county auditor's office chose to participate in the elections reform task force with the knowledge that the State would not be able to assume the costs of their participation. If the Legislature believed this to be a wise expenditure of funds they should have created a specific appropriation for this purpose rather than forcing the Secretary of State to direct limited funds away from other purposes such as statewide election activities.

For the above reason, I hereby respectfully approve Senate File 531 with the exception noted above.

Sincerely,  
THOMAS J. VILSACK, Governor

**CHAPTER 188**  
APPROPRIATIONS — ECONOMIC DEVELOPMENT  
*H.F. 718*

**AN ACT** appropriating funds to the department of economic development, certain board of regents institutions, the department of workforce development, and the public employment relations board, making related statutory changes, and providing effective dates.

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

Section 1. DEPARTMENT OF ECONOMIC DEVELOPMENT. There is appropriated from the general fund of the state and other designated funds to the department of economic development for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

- 1. ADMINISTRATIVE SERVICES DIVISION
  - a. General administration

For salaries, support, maintenance, miscellaneous purposes, for allocating \$285,000 to the world food prize, and for providing that a business receiving moneys from the department for the purpose of job creation shall make available ten percent of the new jobs created for promise jobs program participants who are qualified for the jobs created, and for not more than the following full-time equivalent positions:

.....	\$	1,699,126
.....	FTEs	25.75

Of the moneys allocated for the world food prize, \$50,000 shall be allocated for purposes of the world food prize youth institute.

- b. Film office

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

.....	\$	245,003
.....	FTEs	2.00

- c. Iowa commission on volunteerism

For transferring to the Iowa state commission grant program to be used as matching

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

.....	\$	75,200
.....	FTEs	3.25

2. BUSINESS DEVELOPMENT DIVISION

a. Business development operations

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

.....	\$	4,437,342
.....	FTEs	27.75

Of the amount appropriated in this paragraph "a", \$400,000 shall be allocated to support activities in conjunction with the Iowa manufacturing technology center, and \$94,000 shall be allocated to the graphic arts center.

The department shall consult and work with the small business development centers in an effort to eliminate any duplication of services provided by the department and the small business development centers and to determine how to deliver services to small businesses in the state in the most efficient manner.

For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the department shall allocate \$94,000 from the moneys appropriated under this subsection for the federal procurement office.

b. Workforce recruitment initiative

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

.....	\$	377,156
.....	FTEs	2.00

c. Strategic investment fund

For deposit in the Iowa strategic investment fund for salaries, support, and for not more than the following full-time equivalent positions:

.....	\$	3,503,826
.....	FTEs	12.50

The department may allocate from the Iowa strategic investment fund up to \$90,240 for the microbusiness rural enterprise assistance program under section 15.114.

By January 14, 2002, the department shall submit a written report to the members of the joint appropriations subcommittee on economic development and the legislative fiscal bureau on the progress made by the department in making the community economic betterment program a self-sustaining, revolving loan program. The report shall include information regarding the department's progress in making the community economic betterment program self-sufficient and projections and plans for continuing to make the program self-sufficient over the subsequent five years.

d. Insurance economic development

There is appropriated from moneys collected by the division of insurance in excess of the anticipated gross revenues under section 505.7, subsection 3, to the department for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, for insurance economic development and international insurance economic development:

.....	\$	100,000
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e. Value-added agriculture

For deposit in the value-added agricultural products and processes financial assistance fund:

.....	\$	2,850,000
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There is appropriated from the moneys available to support value-added agricultural products and processes, 6 percent, or so much thereof as is necessary, for administration of the value-added agricultural products and processes financial assistance program as provided

in section 15E.111, including salaries, support, maintenance, miscellaneous purposes, and for not more than 3.00 FTEs.

The department shall collaborate with the university of northern Iowa on a strategic initiative to develop ag-based industrial lubrication technology and to create projects to deploy the technology in commercial applications. Notwithstanding the requirements of section 15E.111 and the administrative rules for value-added agricultural products and processes, the department shall allocate \$258,500 for this initiative.

3. COMMUNITY DEVELOPMENT DIVISION

a. Community assistance

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for administration of the community economic preparedness program, the Iowa community betterment program, and the city development board:

.....	\$	772,516
.....	FTEs	10.50

b. Main street/rural main street program

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

.....	\$	409,161
.....	FTEs	3.00

Notwithstanding section 8.33, moneys committed to grantees under contract from the general fund of the state that remain unexpended on June 30, 2002, shall not revert to any fund but shall remain available for expenditure for purposes of the contract during the fiscal year beginning July 1, 2002.

c. Community development program

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions, for rural resource coordination, rural community leadership, rural innovations grant program, and the rural enterprise fund:

.....	\$	853,284
.....	FTEs	7.50

There is appropriated from the rural community 2000 program revolving fund established in section 15.287 to provide to Iowa's councils of governments funds for planning and technical assistance to local governments:

.....	\$	150,000
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There is appropriated from the rural community 2000 program revolving fund established in section 15.287 to the rural development program for the purposes of the program including the rural enterprise fund and collaborative skills development training:

.....	\$	370,000
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Notwithstanding section 8.33, moneys committed to grantees under contract from the general fund of the state or through transfers from the Iowa community development loan fund or from the rural community 2000 program revolving fund that remain unexpended on June 30, 2002, shall not revert but shall be available for expenditure for purposes of the contract during the fiscal year beginning July 1, 2002.

d. Community development block grant and HOME

For administration and related federal housing and urban development grant administration for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	396,035
.....	FTEs	21.75

4. INTERNATIONAL DIVISION

a. International trade operations

For salaries, support, maintenance, miscellaneous purposes, for support of foreign representation and trade offices, and the agricultural product advisory council, and for not more than the following full-time equivalent positions:

.....	\$	2,190,893
.....	FTEs	14.25

Of the moneys appropriated in this lettered paragraph, \$235,000 shall be allocated to support the taste of Iowa program.

From among the full-time equivalent positions authorized by this lettered paragraph, one position shall concentrate on the export sale of grain, one on the export sale of livestock, and one on the export sale of value-added agricultural products.

b. Export trade assistance program

For export trade activities, including a program to encourage and increase participation in trade shows and trade missions by providing financial assistance to businesses for a percentage of their costs of participating in trade shows and trade missions, by providing for the lease/sublease of showcase space in existing world trade centers, by providing temporary office space for foreign buyers, international prospects, and potential reverse investors, and by providing other promotional and assistance activities, including salaries and support:

..... \$ 308,000

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

c. For the partner state program to contract with private groups or organizations which are the most appropriate to administer this program and the groups and organizations participating in the program shall, to the fullest extent possible, provide the funds to match the appropriation made in this paragraph:

..... \$ 120,000

5. TOURISM DIVISION

Tourism operations and advertising

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

..... \$ 3,470,123  
..... FTEs 19.52

The department shall not use the moneys appropriated in this subsection, unless the department develops public-private partnerships with Iowa businesses in the tourism industry, Iowa tour groups, Iowa tourism organizations, and political subdivisions in this state to assist in the development of advertising efforts. The department shall, to the fullest extent possible, develop cooperative efforts for advertising with contributions from other sources.

Sec. 2. COMMUNITY DEVELOPMENT LOAN FUND. Notwithstanding section 15E.120, subsections 5, 6, and 7, and section 15.287, there is appropriated from the Iowa community development loan fund all the moneys available during the fiscal year beginning July 1, 2001, and ending June 30, 2002, to the department of economic development for the community development program to be used by the department for the purposes of the program.

Sec. 3. JOB TRAINING FUND. Notwithstanding section 15.251, subsection 2, there is appropriated from the job training fund to the department of workforce development for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

1. To provide final phase-out funding for existing labor management projects:

..... \$ 30,000

2. After the appropriation in subsection 1 relating to labor management projects, all remaining moneys in the job training fund, including any moneys appropriated or credited to the fund during the fiscal year, shall be transferred to the workforce development fund established pursuant to section 15.343.

Sec. 4. WORKFORCE DEVELOPMENT FUND. There is appropriated from the workforce development fund account created in section 15.342A, to the workforce development fund



created in section 15.343, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, for the purposes of the workforce development fund, and for not more than the following full-time equivalent positions:

.....	\$	4,000,000
.....	FTEs	4.00

Sec. 5. From funds appropriated or transferred to or receipts credited to the workforce development fund created in section 15.343, up to \$400,000 for the fiscal year beginning July 1, 2001, and ending June 30, 2002, may be used for the administration of workforce development activities including salaries, support, maintenance, and miscellaneous purposes and for not more than 4.00 FTEs.

Sec. 6. IOWA STATE UNIVERSITY. There is appropriated from the general fund of the state to the Iowa state university of science and technology for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For funding and maintaining in their current locations the existing small business development centers, and for not more than the following full-time equivalent positions:

.....	\$	1,147,192
.....	FTEs	5.80

2. For the Iowa state university of science and technology research park, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	362,155
.....	FTEs	4.31

3. For funding the institute for physical research and technology, provided that \$287,640 shall be allocated to the industrial incentive program, and for not more than the following full-time equivalent positions:

.....	\$	4,205,662
.....	FTEs	46.42

It is the intent of the general assembly that the industrial incentive program focus on Iowa industrial sectors and seek contributions and in-kind donations from businesses, industrial foundations, and trade associations and that moneys for the institute for physical research and technology industrial incentive program shall only be allocated for projects which are matched by private sector moneys for directed contract research or for nondirected research. The match required of small businesses as defined in section 15.102, subsection 4, for directed contract research or for nondirected research shall be \$1 for each \$3 of state funds. The match required for other businesses for directed contract research or for nondirected research shall be \$1 for each \$1 of state funds. The match required of industrial foundations or trade associations shall be \$1 for each \$1 of state funds.

Iowa state university of science and technology shall report annually to the joint appropriations subcommittee on economic development and the legislative fiscal bureau the total amounts of private contributions, the proportion of contributions from small businesses and other businesses, and the proportion for directed contract research and nondirected research of benefit to Iowa businesses and industrial sectors.

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. 7. UNIVERSITY OF IOWA. There is appropriated from the general fund of the state to the state university of Iowa for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the university of Iowa research park, including salaries, support, maintenance,

equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	320,560
.....	FTEs	2.70

2. For funding the advanced drug development program at the Oakdale research park, and for not more than the following full-time equivalent positions:

.....	\$	259,262
.....	FTEs	3.30

The board of regents shall submit a report on the progress of regents institutions in meeting the strategic plan for technology transfer and economic development to the secretary of the senate, the chief clerk of the house of representatives, and the legislative fiscal bureau by January 15, 2002.

Sec. 8. UNIVERSITY OF NORTHERN IOWA. There is appropriated from the general fund of the state to the university of northern Iowa for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the metal casting institute, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	166,249
.....	FTEs	2.50

2. For the institute of decision making, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	711,672
.....	FTEs	8.50

Sec. 9. DEPARTMENT OF WORKFORCE DEVELOPMENT. There is appropriated from the general fund of the state, to the department of workforce development for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF LABOR SERVICES

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

.....	\$	3,290,446
.....	FTEs	92.00

From the contractor registration fees, the division of labor services shall reimburse the department of inspections and appeals for all costs associated with hearings under chapter 91C, relating to contractor registration.

2. DIVISION OF WORKERS' COMPENSATION

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

.....	\$	2,235,187
.....	FTEs	35.00

The division of workers' compensation shall continue charging a \$65 filing fee for workers' compensation cases. The filing fee shall be paid by the petitioner of a claim. However, the fee can be taxed as a cost and paid by the losing party, except in cases where it would impose an undue hardship or be unjust under the circumstances.

3. WORKFORCE DEVELOPMENT STATE AND REGIONAL BOARDS

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

.....	\$	118,700
.....	FTEs	1.00

4. NEW EMPLOYMENT OPPORTUNITY FUND

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions for the new employment opportunity program established in section 84A.10:

.....	\$	251,270
.....	FTEs	0.30

Notwithstanding section 8.33, moneys appropriated in this subsection which remain unexpended or unobligated on June 30, 2002, shall not revert to the general fund of the state but shall remain available for expenditure for the same purpose during the fiscal year beginning July 1, 2002.

Sec. 10. ADMINISTRATIVE CONTRIBUTION SURCHARGE FUND. Notwithstanding section 96.7, subsection 12, paragraph "c", there is appropriated from the administrative contribution surcharge fund of the state to the department of workforce development for the fiscal year beginning July 1, 2001, and ending June 30, 2002, any moneys remaining in the administrative contribution surcharge fund on June 30, 2001, and the entire amount collected during the fiscal year beginning July 1, 2001, and ending June 30, 2002, or so much thereof as is necessary, for salaries, support, maintenance, conducting labor market surveys, miscellaneous purposes, and for workforce development regional advisory board member expenses.

Sec. 11. EMPLOYMENT SECURITY CONTINGENCY FUND. There is appropriated from the special employment security contingency fund to the department of workforce development for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF WORKERS' COMPENSATION

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	471,000
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2. IMMIGRATION SERVICE CENTERS

For salaries, support, maintenance, and miscellaneous purposes for the establishment of pilot immigration service centers:

.....	\$	160,000
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3. LABOR MARKET INFORMATION

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

.....	\$	67,078
.....	FTEs	1.20

The department of workforce development shall maintain pilot immigration service centers that offer one-stop services to deal with the multiple issues related to immigration and employment. The pilot centers shall be designed to support workers, businesses, and communities with information, referrals, job placement assistance, translation, language training, resettlement, as well as technical and legal assistance on such issues as forms and documentation. Through the coordination of local, state, and federal service providers, and through the development of partnerships with public, private, and nonprofit entities with established records of international service, these pilot centers shall seek to provide a seamless service delivery system for new Iowans.

Any additional penalty and interest revenue may be used to accomplish the mission of the department upon notification of the use to the chairpersons and ranking members of the joint appropriations subcommittee on economic development, the department of management, and the legislative fiscal bureau. *\*However, the department shall not allocate any additional penalty and interest revenue prior to January 30, 2002.\**

Sec. 12. PUBLIC EMPLOYMENT RELATIONS BOARD. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year begin-

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

ning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, for the purposes designated:

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

.....	\$	857,489
.....	FTEs	12.80

Sec. 13. TOURISM OPERATIONS. There is appropriated from the community attraction and tourism fund created in section 15F.204 to the department of economic development for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For tourism operations, including salaries, support, maintenance, and miscellaneous purposes:

.....	\$	1,200,000
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\*Sec. 14. HOUSING AND SHELTER ASSISTANCE. There is appropriated from the Iowa finance authority to the department of economic development for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For providing technical assistance to communities of all sizes and local financial institutions to help meet local housing needs and for the shelter assistance fund, and for not more than the following full-time equivalent positions:

.....	\$	500,000
.....	FTEs	2.00*

\*Sec. 15. Notwithstanding the requirements of section 16.10, subsections 1 and 2, the Iowa finance authority shall, for the fiscal year beginning July 1, 2001, transfer \$1,200,000 to the department of economic development for deposit in the community development block grant account to be used as state matching funds for the federal HOME program.\*

Sec. 16. 1998 Iowa Acts, chapter 1225, section 27, unnumbered paragraph 6, is amended to read as follows:

Following the complete liquidation and dissolution of the corporation or the sale of the corporation, all remaining moneys shall be transferred to the strategic investment fund. The liquidation, dissolution, or sale of the corporation shall be completed by December 31, 2001. Upon transfer of the remaining moneys to the strategic investment fund, the ISCC liquidation corporation board shall be dissolved.

Sec. 17. 1999 Iowa Acts, chapter 197, section 9, subsection 7, unnumbered paragraph 2, is amended to read as follows:

Notwithstanding section 8.33, moneys appropriated in this subsection which remain unexpended or unobligated on June 30, 2000, shall not revert to the general fund of the state but shall remain available for expenditure for the same purpose during the fiscal year years beginning July 1, 2000, and July 1, 2001.

Sec. 18. 2000 Iowa Acts, chapter 1230, section 10, subsection 7, is amended to read as follows:

7. NEW EMPLOYMENT OPPORTUNITY FUND

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions for the new employment opportunity program established in section 84A.10:

.....	\$	500,000
.....	FTEs	1.79

Notwithstanding section 8.33, moneys appropriated in this subsection which remain unexpended or unobligated on June 30, 2001, shall not revert to the general fund but shall remain available for expenditure for the same purpose during the fiscal year beginning July 1, 2001.

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

Sec. 19. 2000 Iowa Acts, chapter 1230, section 11, unnumbered paragraph 3, is amended to read as follows:

In addition to moneys appropriated by this section, notwithstanding section 96.7, subsection 12, paragraph "c", for the fiscal year beginning July 1, 2000, there is appropriated from the administrative contribution surcharge fund of the state to the department of workforce development \$700,000, or so much thereof as is necessary, for matching funds for welfare-to-work grants authorized through the United States department of labor. Notwithstanding section 8.33, moneys appropriated in this unnumbered paragraph that remain unencumbered or unobligated on June 30, 2001, shall not revert but shall remain available for expenditure for the purposes designated for the fiscal year beginning July 1, 2001.

Sec. 20. 2000 Iowa Acts, chapter 1230, section 12, subsection 2, is amended to read as follows:

2. IMMIGRATION SERVICE CENTERS

For salaries, support, maintenance, and miscellaneous purposes for the establishment of pilot immigration service centers:

..... \$ 160,000

The department of workforce development shall establish pilot immigration service centers that offer one-stop services to deal with the multiple issues related to immigration and employment. The pilot centers shall be designed to support workers, businesses, and communities with information, referrals, job placement assistance, translation, language training, resettlement, as well as technical and legal assistance on such issues as forms and documentation. Through the coordination of local, state, and federal service providers, and through the development of partnerships with public, private, and nonprofit entities with established records of international service, these pilot centers shall seek to provide a seamless service delivery system for new Iowans.

Notwithstanding section 8.33, moneys appropriated in this subsection which remain unexpended or unobligated on June 30, 2001, shall not revert but shall remain available for expenditure for the same purpose during the fiscal year beginning July 1, 2001.

Sec. 21. Section 15.342A, Code 2001, is amended to read as follows:

15.342A WORKFORCE DEVELOPMENT FUND ACCOUNT.

A workforce development fund account is established in the office of the treasurer of state under the control of the department. The account shall receive funds pursuant to section 422.16A up to a maximum of ~~eight~~ four million dollars per year. The account shall also receive funds pursuant to section 15.251 with no dollar limitation.

Sec. 22. Section 15.343, subsection 3, paragraph b, Code 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

b. Moneys in the workforce development fund shall be allocated as follows:

- (1) Three million dollars shall be used for purposes provided in section 260F.6.
- (2) One million dollars shall be used for purposes provided in section 260F.6B.

Sec. 23. Section 90A.12, subsection 1, Code 2001, is amended to read as follows:

1. A person ~~age thirty three years or older~~ shall not participate as a contestant in an organized amateur boxing contest unless each contestant participating in the contest ~~is age thirty three years or older~~ meets the age requirements of USA boxing incorporated, or its successor organization. A birth certificate, or similar document validating the contestant's date of birth, must be submitted at the time of the prefight physical examination in order to determine eligibility.

Sec. 24. Section 260F.6, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding the requirements of this section, moneys in the job training fund may be used by a community college to conduct entrepreneur development and support activities.

Sec. 25. Section 321.52A, subsection 2, Code 2001, is amended to read as follows:

2. For the fiscal year beginning July 1, 1996, the treasurer of state shall deposit one million five hundred thousand dollars of moneys received under subsection 1 in the waste tire management fund created in section 455D.11C, and deposit the remainder in the general fund of the state. For the fiscal year beginning July 1, 1997, the treasurer of state shall deposit two million five hundred thousand dollars of moneys received under subsection 1 in the waste tire management fund, and deposit the remainder in the general fund of the state. For the fiscal year beginning July 1, 1998, and the fiscal year beginning July 1, 1999, the treasurer of state shall deposit three million five hundred thousand dollars of moneys received under subsection 1 in the waste tire management fund, and deposit the remainder in the general fund of the state. For the fiscal year beginning July 1, 2000, the treasurer of state shall deposit two million five hundred thousand dollars of the moneys received under subsection 1 in the waste tire management fund, and one million dollars in the road use tax fund, with the remainder deposited in the general fund of the state. For the fiscal year beginning July 1, 2001, the treasurer of state shall deposit one million five hundred thousand dollars of moneys received under subsection 1 in the waste tire management fund, ~~and three million dollars in the road use tax fund,~~ with the remainder deposited in the general fund of the state. For the fiscal year beginning July 1, 2002, and each subsequent fiscal year, the treasurer of state shall deposit the entire amount of moneys received under subsection 1 in the road use tax fund.

Sec. 26. Section 422.16A, Code 2001, is amended to read as follows:

422.16A JOB TRAINING WITHHOLDING — CERTIFICATION AND TRANSFER.

Upon the completion by a business of its repayment obligation for a training project funded under chapter 260E, including a job training project funded under section 15A.8 or repaid in whole or in part by the supplemental new jobs credit from withholding under section 15A.7 or section 15.331, the sponsoring community college shall report to the department of economic development the amount of withholding paid by the business to the community college during the final twelve months of withholding payments. The department of economic development shall notify the department of revenue and finance of that amount. The department shall credit to the workforce development fund account established in section 15.342A twenty-five percent of that amount each quarter for a period of ten years. If the amount of withholding from the business or employer is insufficient, the department shall prorate the quarterly amount credited to the workforce development fund account. The maximum amount from all employers which shall be transferred to the workforce development fund account in any year is ~~eight~~ four million dollars.

Sec. 27. SHELTER ASSISTANCE FUND. In providing moneys from the shelter assistance fund to homeless shelter programs in the fiscal year beginning July 1, 2001, and ending June 30, 2002, the department of economic development shall explore the potential of allocating moneys to homeless shelter programs based in part on their ability to move their clients toward self-sufficiency.

Sec. 28. BUDGET PROPOSALS. The department of economic development and the department of workforce development shall submit all budget proposals in the traditional format as well as in the budgeting for results format for the fiscal year beginning July 1, 2002.

Sec. 29. By December 31 of each year, the ISCC liquidation corporation shall submit an annual written report to the chairpersons and the ranking members of the joint appropriations subcommittee on economic development. The report shall include an update on the financial condition of the corporation relating to the status of any moneys, assets, or contracts currently being held by the corporation or transferred by the corporation during the prior year.

Sec. 30. FEDERAL GRANTS. All federal grants to and the federal receipts of agencies appropriated funds under this Act, not otherwise appropriated, are appropriated for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.

Sec. 31. Notwithstanding section 96.9, subsection 4, paragraph "a", moneys credited to the state by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act shall be appropriated to the department of workforce development and shall be used by the department for the administration of the unemployment compensation program only. This appropriation shall not apply to any fiscal year after December 31, 2002.

Sec. 32. In lieu of the appropriation made in section 15.365, subsection 3, there is appropriated for the fiscal year beginning July 1, 2001, and ending June 30, 2002, \$35,000, or so much thereof as is necessary, from the general fund of the state to the department of economic development to pay refunds as provided under section 15.365.

Sec. 33. EFFECTIVE DATE. Sections 17, 18, 19, and 20 of this Act, being deemed of immediate importance, take effect upon enactment.

*Approved May 30, 2001, with exceptions noted.*

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 718, an Act appropriating funds to the department of economic development, certain board of regents institutions, the department of workforce development, and the public employment relations board, making statutory changes, and providing effective dates.

I am very disappointed with actions the Legislature took concerning this bill. Funding for marketing Iowa's targeted industry clusters, promoting Iowa as a destination site for tourism, and helping communities develop local leadership, provide diversity training and promote local growth initiatives is reduced. The Legislature also dealt a blow to rural Iowa by failing to fund digital divide issues. The New Economy is driven by information. Advanced telecommunications service is a requirement for all citizens and businesses if they are to be competitive in today's global economy.

The enforcement of safe working conditions for Iowa workers is negatively impacted. Individuals seeking adjudication of contested workers' compensation cases will experience dramatic delays in receiving final decisions due to budget reductions contained in this bill. In addition, Iowans seeking work will now have to travel longer distances to receive job placement assistance due to the Legislature's failure to address funding for rural workforce development offices.

It is therefore with great reluctance that I transmit House File 718 with the following exceptions, which I can not approve.

I am unable to approve the designated portion of Section 11, subsection 3, unnumbered paragraph 3. This prevents the department of workforce development from allocating additional penalty and interest revenues prior to January 30, 2002. In the past, the department has had the flexibility to identify projects or target areas that would receive funding and report these expenditures to the Legislature. I vetoed this language last year because it is unduly prescriptive, usurps normal executive branch functions, and could hamper administration of the funds. This language was not acceptable last year and it is not acceptable this year.

I am unable to approve Sections 14 and 15 in their entirety. These sections would appropriate and allocate Iowa Finance Authority resources to support housing programs operated by the Department of Economic Development. I agree that these housing programs should be funded. However, the direct appropriation of Iowa Finance Authority assets poses a significant financial risk. Moody's Rating Service has indicated that such actions will lead to a bond rating downgrade. A lower bond rating will increase borrowing costs resulting in increased costs for first time home buyers. It is more appropriate for the Authority to leverage their assets to address Iowa's housing needs as recommended by the housing task force.

For the above reasons, I hereby respectfully approve House File 718 with the exceptions noted above.

Sincerely,  
THOMAS J. VILSACK, Governor

**CHAPTER 189**  
**APPROPRIATIONS — STATE GOVERNMENT**  
**TECHNOLOGY AND OPERATIONS**  
*H.F. 719*

**AN ACT** relating to state government technology and operations, by making and relating to appropriations to the Iowa communications network for the support of certain Part III users, making appropriations to various entities for other technology-related purposes, providing for the procurement of information technology, and providing an effective date.

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

Section 1. **TREASURER OF STATE.** There is appropriated from the general fund of the state to the treasurer of state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For debt service:

..... \$ 11,405,000<sup>1</sup>

Funds appropriated in this section shall be deposited in a separate fund established in the office of the treasurer of state to be used solely for debt service for the Iowa communications network. The Iowa telecommunications and technology commission shall certify to the treasurer of state when a debt service payment is due, and upon receipt of the certification, the treasurer shall make the payment. The commission shall pay any additional amount due from funds deposited in the Iowa communications network fund.

Sec. 2. **IOWA COMMUNICATIONS NETWORK OPERATIONS.**

1. There is appropriated from the general fund of the state to the Iowa telecommunications and technology commission for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated in this subsection:

For operations of the network consistent with chapter 8D and for the following full-time equivalent positions:  
..... \$ 2,234,330  
..... FTEs 105.00

<sup>1</sup> See chapter 176, §21 – 23 herein



2. Notwithstanding section 8.33 or 8.39, moneys appropriated in this section which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for the purposes designated in the succeeding fiscal year, and shall not be transferred to any other program.

3. It is the intent of the general assembly that the Iowa telecommunications and technology commission annually review the hourly rates established, as provided in section 8D.3, subsection 3, paragraph "i", consistent with this paragraph. Such rates shall be established in a manner to minimize any subsidy provided through state general fund appropriations.

Sec. 3. PUBLIC BROADCASTING. There is appropriated from the general fund of the state to the public broadcasting division of the department of education for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated in subsections 1 and 2 and for the following full-time equivalent positions:

.....	\$	2,026,808
.....	FTEs	8.00

1. Of the amount appropriated in this section, \$427,656 shall be expended by the public broadcasting division of the department of education to provide support for functions related to the network, including but not limited to the following functions: development of distance learning applications; development of a central information source on the internet relating to educational uses of the network; second-line technical support for network sites; testing and initializing sites onto the network; and coordinating the work of the education telecommunications council.

2. Of the amount appropriated in this section, \$1,599,152 shall be allocated by the public broadcasting division of the department of education to the regional telecommunications councils established in section 8D.5. The regional telecommunications councils shall use the funds to provide technical assistance for network classrooms, planning and troubleshooting for local area networks, scheduling of video sites, and other related support activities.

Sec. 4. INFORMATION TECHNOLOGY DEPARTMENT. There is appropriated from the general fund of the state to the information technology department for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of providing information technology services to state agencies and for the following full-time equivalent positions:

.....	\$	3,233,862
.....	FTEs	158.91

\*1. *The information technology department shall not increase any fees or charges to other state agencies for services provided to such state agencies by the department, unless such increase in fees or charges is first reported to the department of management. The department of management shall submit a report notifying the legislative fiscal bureau regarding any fee increase as the increase occurs.\**

2. The information technology department is authorized to enter into agreements with other departments, agencies, boards, and commissions for the provision of information technology services. During the development of such agreements, the agreeing parties shall identify any and all direct cost savings to be realized in the provision of these services. Once these savings from the agreement are identified, the information technology department shall notify the department of management of the savings so identified. The department of management shall then cause the amount of savings realized from the agreement to be transferred to the pooled technology account for allocation for the technology programs identified for funding pursuant to section 5 of this Act. The department of management shall annually report the amount transferred by each department to the legislative fiscal bureau.

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

Sec. 5. POOLED TECHNOLOGY ACCOUNT.

1. Notwithstanding section 8.57, subsection 5, paragraph "c", there is appropriated from the rebuild Iowa infrastructure fund to the pooled technology account established in the office of the treasurer of state under the control of the information technology department, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the support of various technology programs:

..... \$ 13,000,000

Moneys appropriated pursuant to this section are allocated in descending priority order for use during the fiscal year beginning July 1, 2001, and ending June 30, 2002, as follows:

a. The first \$3,000,000 shall be allocated to the department of education for transfer to the community college vocational-technical technology improvement program authorized in chapter 260A.

b. The next \$1,500,000 shall be allocated to the university of northern Iowa for developing a twenty-first century learning initiative. The university of northern Iowa shall consult with the information technology department and the department of education in continuing this initiative.

c. The next \$1,500,000 shall be allocated to the department of education for purposes of making technology available to students of accredited nonpublic schools in accordance with section 14 of this Act.

d. The next \$2,727,000 shall be allocated to the Iowa telecommunications and technology commission for maintenance and lease costs associated with Part III connections.

*\*e. The next \$312,000 shall be allocated to the information technology department. Of this amount, \$252,000 shall be utilized for lease-purchase costs related to the justice data warehouse technology project, and \$60,000 shall be transferred to the division of criminal and juvenile justice planning of the department of human rights for 1.00 FTE to provide support for the justice data warehouse technology project.*

*f. The next \$1,000,000 shall be allocated to the information technology department for implementation of an enterprise data warehouse.\**

g. The next \$500,000 shall be allocated to the secretary of state's office to replace the secretary of state's voter registration system.

*\*h. The next \$1,000,000 shall be allocated to the Iowa department of workforce development for automation of the unemployment system.*

*i. The next \$250,000 shall be allocated to the department of agriculture and land stewardship for the e-commerce electronic licensing project.\**

j. The remaining amount in the pooled technology account shall be allocated to implement the recommendations of the information technology council. *\*However, none of these funds may be utilized for asynchronous transfer mode technology conversion, the enterprise resource planning project, or digital broadcast conversion, or for lease-purchase payments in connection therewith. Amounts allocated pursuant to this paragraph shall include any reversions in excess of those necessary to fund the justice data warehouse project.\**

2. A department or agency receiving an appropriation under subsection 1 shall consult with the information technology department regarding any technology purchase, lease, or contract, prior to making a purchase or entering into a lease or contract. This subsection shall not apply to a technology purchase, lease, or contract made or entered into by or on behalf of a community college\*, the university of northern Iowa in developing a twenty-first century learning initiative\*, or an accredited nonpublic school pursuant to subsection 1, paragraphs "a" through "c".

3. The department of management, in cooperation with the information technology department, shall develop a standard budget request form for technology or business reengineering projects. A department requesting funding for projects which will cost more than \$100,000 shall use the request form. The form shall require consistent reporting criteria including, but not limited to, project description, project goals, project performance measures, return on investment, cost, time frame, funding sources, and customer base.

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

4. Notwithstanding the distribution formula contained in section 8.62 for an operational appropriation which remains unexpended or unencumbered for the fiscal year beginning July 1, 2000, 75 percent of the unexpended or unencumbered moneys subject to section 8.62 are appropriated to the pooled technology account. The remaining 25 percent of such moneys shall remain with the entity to which the operational appropriation was made. Notwithstanding section 8.33, for an appropriation other than an operational appropriation as provided in section 8.62 which remains unencumbered for the fiscal year beginning July 1, 2000, 100 percent of the unexpended or unencumbered moneys are appropriated to the pooled technology account. Of the funds appropriated to the pooled technology account pursuant to this subsection which remain after the deposit to the general fund of the state specified in unnumbered paragraph 2, \$312,000 shall be allocated to the information technology department for lease-purchase costs related to the justice data warehouse technology project.

Notwithstanding this subsection, the first \$10,000,000 subject to reversion and appropriation to the pooled technology account under this subsection shall be deposited in the general fund to be used for balancing the state's budget for the fiscal year beginning July 1, 2001, and ending June 30, 2002.

Sec. 6. FUNDING FOR IOWACCESS.

1. Notwithstanding section 321A.3, subsection 1, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the first \$1,000,000 collected and transferred by the department of transportation to the treasurer of state with respect to the fees for transactions involving the furnishing of a certified abstract of a vehicle operating record under section 321A.3, subsection 1, shall be transferred to the lowAccess revolving fund created in section 14B.206 and administered by the information technology department for the purposes of developing, implementing, maintaining, and expanding electronic access to government records in accordance with the requirements set forth in chapter 14B.

2. It is the intent of the general assembly that all fees collected with respect to transactions involving lowAccess shall be deposited in the lowAccess revolving fund created in section 14B.206 and shall be used only for the support of lowAccess projects.

Sec. 7. Section 14B.105, subsection 2, paragraph f, Code 2001, is amended to read as follows:

f. Review the recommendations of the lowAccess advisory council regarding rates to be charged for access to and for value-added services performed through lowAccess, ~~and make recommendations to the general assembly regarding such rates. A rate shall not be approved or charged unless approved by act of the general assembly.~~ The information technology council shall report the establishment of a new rate or change in the level of an existing rate to the department of management, and the department of management shall notify the legislative fiscal bureau regarding the rate establishment or change.

Sec. 8. Section 14B.203, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 5. Notwithstanding any other provision of this section, the department may establish for the fiscal years beginning July 1, 2001, and ending June 30, 2005, a pilot project for fee collection. Fees shall be collected based on the ability to access court information from remote locations. *\*All revenue derived from a pilot project implemented pursuant to this subsection shall be deposited into the pooled technology account.\**

*\*Sec. 9. Section 260A.1, subsection 1, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:*

*1. Appropriations from the pooled technology account may be used for the purposes authorized in the community college vocational-technical technology improvement program.\**

Sec. 10. Section 260A.2, Code 2001, is amended to read as follows:

260A.2 COMMUNITY COLLEGE VOCATIONAL-TECHNICAL TECHNOLOGY IMPROVEMENT PLANS.

Prior to receiving moneys under this chapter, the board of directors of a community col-

lege shall adopt a technology plan that supports community college vocational-technical technology improvement efforts, authorizes a needs assessment of business and industry in the district, and includes an evaluation component, and shall provide to the department of education adequate assurance that funds received under this chapter will be used in accordance with the technology plan. The plan shall be developed by licensed professional staff of the community college, including both faculty members and school administrators, the private sector, trade and professional organizations, and other interested parties, and shall, at a minimum, focus on the attainment of the vocational-technical skills and achievement goals of the student. The plan shall consider the community college's interconnectivity with the Iowa communications network, and shall demonstrate how, ~~over a four-year period~~, the board will utilize technology to improve vocational-technical student achievement. The technology plan shall be kept on file at the community college. Progress made under the plan shall be reported annually to the department of education in a manner prescribed by the department of education.

Sec. 11. Section 304.13A, subsections 1 and 2,<sup>2</sup> Code 2001, are amended to read as follows:

1. An agency ~~required to compile and maintain a report, which produces or makes available for public inspection written reports or newsletters~~ on and after July 1, 2001, shall maintain such report ~~or newsletter~~ in an electronic form, giving consideration to the standards for electronic records recommended by the information technology department. Such agency, by itself, or with the assistance of the information technology department, shall also make the report ~~or newsletter~~ accessible to the public through the internet as provided in subsection 2 and through other electronic means.

2. A copy of all ~~required~~ agency reports ~~or newsletters maintained pursuant to subsection 1~~ shall be located at an internet site maintained by the information technology department in consultation with the state librarian, and all ~~required~~ such reports ~~or newsletters~~ shall be placed on electronic media. The state librarian shall provide for the distribution of such copies to a public library in this state requesting such copy.

Sec. 12. 2000 Iowa Acts, chapter 1226, section 5, subsection 2, is amended by adding the following new paragraph:

NEW PARAGRAPH. dd. The next \$1,400,000 shall be allocated to the treasurer of state for debt service for the Iowa communications network for the fiscal year beginning July 1, 2001, and ending June 30, 2002.

Sec. 13. 2000 Iowa Acts, chapter 1226, section 5, subsection 2, paragraph e, unnumbered paragraph 1, is amended to read as follows:

The next ~~\$21,000,000~~ \$19,600,000 shall be allocated to the division of information technology services of the department of general services<sup>3</sup> only for the projects designated in this paragraph as follows:

Sec. 14. TECHNOLOGY SERVICES FOR ACCREDITED NONPUBLIC SCHOOL STUDENTS.

1. Technology adopted and purchased by a school district shall, to the extent funds are appropriated by the general assembly, be made available to students of accredited nonpublic schools located within the boundaries of the school district upon the written request of the authorities in charge of the accredited nonpublic school on behalf of the school's students as provided in this section.

2. Funds appropriated for purposes of this section shall be allocated to school districts for the purchase of technology for accredited nonpublic schools as provided in this section, subject to the restrictions of section 256D.8, subsection 1. The department of education shall ascertain a maximum annual amount the school district shall be required to use for the purchase of technology for participating accredited nonpublic schools. The amount shall

<sup>2</sup> Section 304.13A, "subsection 1 and subsection 2, unnumbered paragraph 1," probably intended

<sup>3</sup> "Information technology department" probably intended; see 2000 Iowa Acts, chapter 1226, §28

be in the proportion that the basic enrollment of a participating accredited nonpublic school bears to the sum of the basic enrollments of all participating accredited nonpublic schools in the state for the budget year. A participating accredited nonpublic school shall certify its actual enrollment to the department of education by October 1, 2001. By October 15, 2001, the department of education shall notify the board of directors of each school district of the maximum amount of its allocation that shall be made available for purchasing nonsectarian, nonreligious technology for each of the participating accredited nonpublic schools located within the school district in accordance with this section. For purposes of this section only, an accredited nonpublic school's enrollment count shall include only students who are residents of Iowa.

3. The costs of providing technology to participating accredited nonpublic schools as provided in this section shall not be included in the computation of district cost under chapter 257, but shall be shown in the budget as an expense from miscellaneous income. Technology expenditures made in accordance with this section shall be kept on file in the school district.

**Sec. 15. POOLED TECHNOLOGY FUNDING — PRIOR ALLOCATIONS.**

1. Notwithstanding section 8.33, moneys allocated in 2000 Iowa Acts, chapter 1226, section 5, subsection 2, paragraphs "a" through "c", and paragraph "dd", as enacted by this Act, which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose for which allocated for the fiscal year beginning July 1, 2001, and ending June 30, 2002.

2. Notwithstanding section 8.33, the remaining balance of the moneys allocated to the information technology department in 2000 Iowa Acts, chapter 1226, section 5, subsection 2, paragraph "e", which remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available for expenditure by the information technology department for technology purposes for the fiscal year beginning July 1, 2001, and ending June 30, 2002.

**Sec. 16. DISTANCE LEARNING — STUDY.** The legislative council is requested to establish an interim study committee relating to distance learning and related Iowa communications network educational issues. The objective of the study shall be to evaluate the viability of establishing the state of Iowa as a distance learning center. The study shall identify distance learning technology opportunities between interested agencies and entities involved in or potentially involved in distance learning activities, including but not limited to K-12 schools, area education agencies, institutions of higher learning, the public broadcasting division of the department of education, the department of education, the Iowa communications network, the information technology department, and military and private sector institutions or agencies. The committee is directed to submit its findings, with any recommendations, in a report to the general assembly not later than January 15, 2002.

**Sec. 17.** Section 260A.4, Code 2001, is repealed.

**Sec. 18. EFFECTIVE DATES.** Section 5, subsection 4; and sections 12, 13, and 15 of this Act, being deemed of immediate importance, take effect upon enactment.

*Approved May 30, 2001, with exceptions noted.*

THOMAS J. VILSACK, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 719, an Act relating to state government technology and operations, by making and relating to appropriations to the Iowa Communications Network for the support of certain Part III users, making appropriations to various entities for other technology-related purposes, providing for the procurement of information technology, and providing an effective date.

House File 719 is a bill I approve reluctantly. My budget recommended significant investments in technology to enhance the efficiency and productivity of state government and provide faster, more responsive services to Iowa citizens. While I am pleased that the Legislature recognized the importance of a designated funding source for technology, I am disappointed that the amount the Legislature appropriated for technology is inadequate for providing Iowans with 21st century government. The Legislature chose to appropriate 26% fewer general fund dollars than I recommended for Information Technology Department and Iowa Communications Network operations. Where I recommended \$28,127,000 from the Infrastructure fund for technology projects and improvements, the Legislature appropriated only \$13,000,000.

Communications and information technology are essential for state government to provide fast, accurate, and responsive services to Iowa's citizens at a lower cost to the taxpayer. State government technology is like the wiring and the plumbing in our homes: we take it for granted until something goes wrong, yet it touches the lives of every Iowan in real and important ways. Every time a human service worker pulls up electronic records for a child abuse investigation, every time a law-enforcement officer or health care provider performs a background check, every time an Iowan applies for Medicaid, or receives child support, child care assistance, or other payments processed by the department of human services, every time a taxpayer's tax filing and refund are processed accurately and promptly, every time a viewer tunes in to an Iowa public television broadcast, Iowans are affected by the appropriations in this bill.

Through the appropriate use of lease-purchase financing, my budget would have completed needed upgrades to the Iowa Communications Network and Iowa Public Television broadcasting facilities, and would have installed the first components of an Enterprise Resource Planning system. My budget provided \$10 million for other technology projects to save taxpayer dollars and improve services for Iowa citizens.

I am disappointed that the Legislature provided no money for an enterprise resource planning system, which promises to save the taxpayers of Iowa over \$10 million a year through increased efficiency and productivity, better information, and lowered costs for purchasing. As a result of the Legislature's unwillingness to finance technology, their budget only provides enough dollars to upgrade transmission facilities at the three largest public television stations in the state, and only a third of the money to complete an upgrade of the Iowa Communications Network. This could potentially leave Iowans in outlying parts of the state without public television programs, if any of the other five public television stations lose their licenses because they cannot broadcast a digital signal by the FCC's October 2002 deadline. Spare parts are no longer manufactured for the older parts of the communications network, so failures could result in long interruptions of data and phone service to local offices that provide direct services to Iowa citizens, and interruption of video courses taken by students at K-12 schools and community colleges. We will spend money on repair of eight-year-old components that could have been spent on replacing them.

As passed by the Legislature, this bill would leave only \$1.2 million in the pooled technology fund to cover a number of important ongoing projects and projects with federal mandates. This entire amount is not enough to convert electronic Medicaid records to comply with the 1996 federal Health Insurance Portability and Accountability Act (HIPAA) by October of 2002, and the State of Iowa could face penalties up to \$1.5 billion if we do not comply.

I am disappointed to see the bad budget practices in this bill. The bill allocates \$1,400,000 in one-time funding to pay for ongoing costs of ICN debt service.

House File 719 is, therefore, approved on this date, with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 4, subsection 1, in its entirety. This item requires the Information Technology Department to notify the Department of Management prior to any fee increases. I have received assurances that the two departments will work cooperatively to examine any proposed fee or rate increases, without the necessity of this legislative mandate.

I am unable to approve the items designated as Section 5, subsection 1, paragraphs e, f, h, and i in their entirety. My budget recommendation was to pool funds for technology projects in order to get the most for our technology dollar. These items appropriate specific dollar amounts for four pooled technology projects: Enterprise Data-warehouse, Justice Data-warehouse, Department of Agriculture and Land Stewardship electronic licensing, and Workforce Development unemployment system. The projects named in these four items will be eligible for dollars from the larger pool that results from this item veto. The Information Technology Department can accomplish more with the same dollars by combining these with similar projects in other departments, and this frees up dollars for other projects such as HIPAA.

I am unable to approve the designated portion of Section 5, subsection 1, paragraph j. This item would prohibit the Information Technology Department from spending any pooled technology dollars on Asynchronous Transfer Mode network conversion for the Iowa Communications Network, an Enterprise Resource Planning system, or digital broadcasting facilities for Iowa Public Television. This item veto provides the Information Technology Department with flexibility to pursue important projects which were recommended by the Information Technology Council, and which will provide important savings and benefits to Iowans.

I am unable to approve the designated portion of Section 5, subsection 2. This item exempts UNI from consulting with the Information Technology Department to make sure that purchases and contracts for 21st century learning infrastructure are compatible with other state agencies. The 21st century learning infrastructure project will develop a digital library of electronic curriculum that will be available to educators and libraries across the state. For this reason, it is appropriate to ensure that the technology we use will be compatible across state and local organizations, including the State and Regional Libraries.

I am unable to approve the designated portion of Section 8. This item would deposit into the pooled technology fund any fees that the Judicial branch collects for online information transactions. The proper place for fees collected from IowaAccess Internet sites is the IowaAccess fund.

I am unable to approve the item designated as Section 9, in its entirety. This item does not affect the level of funding for community college technology; it would establish in the Code that pooled technology funds may be used for the community college vocational-technical technology improvement program in future years. While I support improvement of community college technology and recommended funding it at a higher level, pooled technology is not the source of money I recommended for this program.

For the above reasons, I hereby respectfully approve House File 719 with the exceptions noted above.

Sincerely,  
THOMAS J. VILSACK, *Governor*

**CHAPTER 190**  
**COMPENSATION FOR PUBLIC EMPLOYEES**

*H.F. 746*

**AN ACT** relating to the compensation and benefits for public officials and employees, providing for related matters, and making appropriations.

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

**Section 1. STATE COURTS — JUSTICES, JUDGES, AND MAGISTRATES.**

1. The salary rates specified in subsection 2 are for the fiscal year beginning July 1, 2001, effective for the pay period beginning June 22, 2001, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the judicial branch from the salary adjustment fund pursuant to section 6 of this Act or if the appropriation is not sufficient, from the funds appropriated to the judicial branch pursuant to any Act of the general assembly.

2. The following annual salary rates shall be paid to the persons holding the judicial positions indicated during the fiscal year beginning July 1, 2001, effective with the pay period beginning June 22, 2001, and for subsequent pay periods.

a. Chief justice of the supreme court:	\$ 120,920
b. Each justice of the supreme court:	\$ 116,600
c. Chief judge of the court of appeals:	\$ 116,490
d. Each associate judge of the court of appeals:	\$ 112,170
e. Each chief judge of a judicial district:	\$ 111,140
f. Each district judge except the chief judge of a judicial district:	\$ 106,610
g. Each district associate judge:	\$ 92,910
h. Each associate juvenile judge:	\$ 92,910
i. Each associate probate judge:	\$ 92,910
j. Each judicial magistrate:	\$ 27,700
k. Each senior judge:	\$ 6,180

**Sec. 2. SALARY RATE LIMITS.** Persons receiving the salary rates established under section 1 of this Act shall not receive any additional salary adjustments provided by this Act.

**Sec. 3. APPOINTED STATE OFFICERS.** The governor shall establish a salary for appointed nonelected persons in the executive branch of state government holding a position enumerated in section 4 of this Act within the range provided, by considering, among other items, the experience of the individual in the position, changes in the duties of the position, the incumbent's performance of assigned duties, and subordinates' salaries. However, the attorney general shall establish the salary for the consumer advocate, the chief justice of the supreme court shall establish the salary for the state court administrator, the ethics and campaign disclosure board shall establish the salary of the executive director, and the state fair board shall establish the salary of the secretary of the state fair board, each within the salary range provided in section 4 of this Act.



The governor, in establishing salaries as provided in section 4 of this Act, shall take into consideration other employee benefits which may be provided for an individual including, but not limited to, housing.

A person whose salary is established pursuant to section 4 of this Act and who is a full-time, year-round employee of the state shall not receive any other remuneration from the state or from any other source for the performance of that person's duties unless the additional remuneration is first approved by the governor or authorized by law. However, this provision does not exclude the reimbursement for necessary travel and expenses incurred in the performance of duties or fringe benefits normally provided to employees of the state.

Sec. 4. STATE OFFICERS — SALARY RATES AND RANGES. The following annual salary ranges are effective for the positions specified in this section for the fiscal year beginning July 1, 2001, and for subsequent fiscal years until otherwise provided by the general assembly. The governor or other person designated in section 3 of this Act shall determine the salary to be paid to the person indicated at a rate within the salary ranges indicated from funds appropriated by the general assembly for that purpose.

1. The following are salary ranges 1 through 5 for the fiscal year beginning July 1, 2001, effective with the pay period beginning June 22, 2001:

SALARY RANGES	<u>Minimum</u>	<u>Maximum</u>
a. Range 1 .....	\$ 8,800	\$ 29,870
b. Range 2 .....	\$ 32,200	\$ 60,255
c. Range 3 .....	\$ 44,100	\$ 70,246
d. Range 4 .....	\$ 53,100	\$ 80,340
e. Range 5 .....	\$ 62,400	\$ 90,434

2. The following are range 1 positions: There are no range 1 positions for the fiscal year beginning July 1, 2001.

3. The following are range 2 positions: administrator of the arts division of the department of cultural affairs, administrators of the division of persons with disabilities, the division on the status of women, the division on the status of African-Americans, the division of deaf services, and the division of Latino affairs of the department of human rights, and administrator of the division of professional licensing and regulation of the department of commerce.

4. The following are range 3 positions: administrator of the division of emergency management of the department of public defense, administrator of the division of criminal and juvenile justice planning of the department of human rights, administrator of the division of community action agencies of the department of human rights, executive director of the commission of veterans affairs, and chairperson and members of the employment appeal board of the department of inspections and appeals.

5. The following are range 4 positions: superintendent of banking, superintendent of credit unions, and chairperson, vice chairperson, and members of the board of parole.

6. The following are range 5 positions: consumer advocate, state public defender, drug policy coordinator, labor commissioner, workers' compensation commissioner, administrator of the alcohol beverages division of the department of commerce, and administrator of the historical division of the department of cultural affairs.

7. The following are salary ranges 6 through 9 for the fiscal year beginning July 1, 2001, effective with the pay period beginning June 22, 2001:

SALARY RANGES	<u>Minimum</u>	<u>Maximum</u>
a. Range 6 .....	\$ 48,200	\$ 80,340
b. Range 7 .....	\$ 66,000	\$ 91,155
c. Range 8 .....	\$ 70,800	\$ 105,781
d. Range 9 .....	\$ 79,000	\$ 126,175

8. The following are range 6 positions: director of the department of human rights, director of the Iowa state civil rights commission, executive director of the college student aid commission, director of the department for the blind, and executive director of the ethics and campaign disclosure board.

9. The following are range 7 positions: director of the department of cultural affairs, director of the department of elder affairs, and director of the law enforcement academy.

10. The following are range 8 positions: the administrator of the state racing and gaming commission of the department of inspections and appeals, director of the department of inspections and appeals, commandant of the veterans home, director of the department of general services, director of the department of personnel, administrator of the public broadcasting division of the department of education, commissioner of public safety, commissioner of insurance, executive director of the Iowa finance authority, director of the department of natural resources, director of the department of corrections, and chairperson of the utilities board. The other members of the utilities board shall receive an annual salary within a range of not less than 90 percent but not more than 95 percent of the annual salary of the chairperson of the utilities board.

11. The following are range 9 positions: director of the department of education, director of human services, director of the department of economic development, director of the information technology department, executive director of the Iowa communications and technology commission,<sup>1</sup> executive director of the state board of regents, director of the state department of transportation, director of the department of workforce development, director of revenue and finance, lottery commissioner, director of public health, the state court administrator, secretary of the state fair board, and the director of the department of management.

Sec. 5. PUBLIC EMPLOYMENT RELATIONS BOARD.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 2001, with the pay period beginning June 22, 2001, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the public employment relations board from the salary adjustment fund, or if the appropriation is not sufficient from funds appropriated to the public employment relations board pursuant to any other Act of the general assembly.

2. The following annual salary rates shall be paid to the persons holding the positions indicated:

a. Chairperson of the public employment relations board:

..... \$ 70,761

b. Two members of the public employment relations board:

..... \$ 65,920

Sec. 6. COLLECTIVE BARGAINING AGREEMENTS FUNDED — GENERAL FUND. There is appropriated from the general fund of the state to the salary adjustment fund for distribution by the department of management to the various state departments, boards, commissions, councils, and agencies, including the state board of regents, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the amount of \$61,270,200, or so much thereof as may be necessary, to fully fund the following annual pay adjustments, expense reimbursements, and related benefits:

1. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.

2. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the public safety bargaining unit.

3. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the security bargaining unit.

4. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the technical bargaining unit.

5. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional fiscal and staff bargaining unit.

6. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the university of northern Iowa faculty bargaining unit.

<sup>1</sup> Iowa "telecommunications" and technology commission probably intended

7. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the clerical bargaining unit.

8. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional social services bargaining unit.

9. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.

10. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining unit.

11. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the patient care bargaining unit.

12. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the science bargaining unit.

13. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the state university of Iowa graduate student bargaining unit.

14. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the state university of Iowa hospital and clinics tertiary health care bargaining unit.

15. The annual pay adjustments, related benefits, and expense reimbursements referred to in sections 7 and 8 of this Act for employees not covered by a collective bargaining agreement.

#### Sec. 7. NONCONTRACT STATE EMPLOYEES — GENERAL.

1. a. For the fiscal year beginning July 1, 2001, the maximum salary levels of all pay plans provided for in section 19A.9, subsection 2, as they exist for the fiscal year ending June 30, 2001, shall be increased by 3 percent for the pay period beginning June 22, 2001, and any additional changes in the pay plans shall be approved by the governor.

b. For the fiscal year beginning July 1, 2001, employees may receive a step increase or the equivalent of a step increase.

2. The pay plans for state employees who are exempt from chapter 19A and who are included in the department of revenue and finance's centralized payroll system shall be increased in the same manner as provided in subsection 1, and any additional changes in any executive branch pay plans shall be approved by the governor.

3. This section does not apply to members of the general assembly, board members, commission members, salaries of persons set by the general assembly pursuant to this Act or set by the governor, other persons designated in section 3 of this Act, employees designated under section 19A.3, subsection 5, and employees covered by 581 IAC 4.6(3).

4. The pay plans for the bargaining eligible employees of the state shall be increased in the same manner as provided in subsection 1, and any additional changes in such executive branch pay plans shall be approved by the governor. As used in this section, "bargaining eligible employee" means an employee who is eligible to organize under chapter 20, but has not done so.

5. The policies for implementation of this section shall be approved by the governor.

Sec. 8. STATE EMPLOYEES — STATE BOARD OF REGENTS. Funds from the appropriation in section 6 of this Act shall be allocated to the state board of regents for the purposes of providing increases for state board of regents employees covered by section 6 of this Act and for employees not covered by a collective bargaining agreement as follows:

1. For regents merit system employees and merit supervisory employees to fund for the fiscal year, increases comparable to those provided for similar contract-covered employees in this Act.

2. For faculty members and professional and scientific employees to fund for the fiscal year, percentage increases comparable to those provided for contract-covered employees in section 6, subsection 6, of this Act.

#### Sec. 9. APPROPRIATIONS FROM ROAD FUNDS.

1. There is appropriated from the road use tax fund to the salary adjustment fund for the

fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

To supplement other funds appropriated by the general assembly:

..... \$ 3,122,527

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

To supplement other funds appropriated by the general assembly:

..... \$ 10,305,191

3. Except as otherwise provided in this Act, the amounts appropriated in subsections 1 and 2 shall be used to fund the annual pay adjustments, expense reimbursements, and related benefits for public employees as provided in this Act.

Sec. 10. SPECIAL FUNDS — AUTHORIZATION. To departmental revolving, trust, or special funds, except for the primary road fund or the road use tax fund, for which the general assembly has established an operating budget, a supplemental expenditure authorization is provided, unless otherwise provided, in an amount necessary to fund salary adjustments as otherwise provided in this Act.

Sec. 11. GENERAL FUND SALARY MONEYS. Funds appropriated from the general fund of the state in this Act relate only to salaries supported from general fund appropriations of the state except for employees of the state board of regents. The funds appropriated from the general fund of the state for employees of the state board of regents shall exclude general university indirect costs and general university federal funds.

Sec. 12. FEDERAL FUNDS APPROPRIATED. All federal grants to and the federal receipts of the agencies affected by this Act which are received and may be expended for purposes of this Act are appropriated for those purposes and as set forth in the federal grants or receipts.

Sec. 13. STATE TROOPER MEAL ALLOWANCE. The sworn peace officers in the department of public safety who are not covered by a collective bargaining agreement negotiated pursuant to chapter 20 shall receive the same per diem meal allowance as the sworn peace officers in the department of public safety who are covered by a collective bargaining agreement negotiated pursuant to chapter 20.

Sec. 14. SALARY MODEL COORDINATOR. Of the funds appropriated by section 6 of this Act, \$133,800 for the fiscal year beginning July 1, 2001, is allocated to the department of management for salary and support of the salary model coordinator who shall work in conjunction with the legislative fiscal bureau to maintain the state's salary model used for analyzing, comparing, and projecting state employee salary and benefit information, including information relating to employees of the state board of regents. The department of revenue and finance, the department of personnel, the five institutions under the jurisdiction of the state board of regents, the eight judicial district departments of correctional services, and the state department of transportation shall provide salary data to the department of management and the legislative fiscal bureau to operate the state's salary model. The format and frequency of provision of the salary data shall be determined by the department of management and the legislative fiscal bureau. The information shall be used in collective bargaining processes under chapter 20 and in calculating the funding needs contained within the annual salary adjustment legislation. A state employee organization as defined in section 20.3, subsection 4, may request information produced by the model, but the information provided shall not contain information attributable to individual employees.

Sec. 15. PATIENT CARE BARGAINING UNIT — OVERTIME.

1. Of the funds appropriated in section 6 of this Act, the following amount, or so much thereof as is necessary, shall be allocated to the department of revenue and finance for the

fiscal year beginning July 1, 2001, and ending June 30, 2002, to be used for the purpose designated:

To reimburse state agencies for expenditures related to the payment of overtime to state employees covered under the patient care bargaining unit:

..... \$ 768,000

2. The department of revenue and finance shall provide guidelines and forms for documentation that a state agency shall submit for the overtime reimbursement provided for in subsection 1. The reimbursement shall be restricted to the amount of moneys appropriated from the general fund of the state that is used to pay overtime of state employees covered under the patient care bargaining unit for the fiscal year beginning July 1, 2001, and ending June 30, 2002.

Sec. 16. HEALTH INSURANCE INCENTIVE PROGRAMS. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the department of revenue and finance shall administer the health insurance incentive programs as contained in the collective bargaining agreements. The incentive payment shall be distributed in the paycheck of an eligible state employee if the employee is employed by a central state agency. Each judicial district department of correctional services and the state board of regents shall provide monthly to the department of revenue and finance a list of their employee counts by benefit plan that qualify for the incentive and the amount of the incentive due. The judicial district department of correctional services and the state board of regents shall include the amount of the incentive payment to their eligible employees' paychecks as soon as the payment is administratively practical.

Sec. 17. STATE EMPLOYEE BENEFIT PROGRAMS — ADMINISTRATIVE COSTS.

1. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the department of personnel shall include a monthly administration charge of \$2.00 per contract on all health insurance plans administered by the department. This is an administration fee attributable only to the employer share for those employees who are eligible for the state share of insurance. If the contract holder is without a state employer to pay the fee, the contract holder shall not be assessed the fee of \$2.00 per month.

2. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the state board of regents, all regional libraries, the state fair board, the department of transportation, and the eight judicial district departments of correctional services shall report and remit the administration charge on a monthly basis to the department of revenue and finance. The report shall contain the number and type of health insurance contracts held by each of its employees whose health insurance is administered by the department of personnel.

3. A health insurance administration fund is created in the state treasury. The proceeds of the monthly administration charge shall be remitted to the health insurance administration fund. The department of revenue and finance shall collect from each department on centralized payroll the administration charge each month and shall remit the amount to the health insurance administration fund. The department of personnel may expend no more than \$600,000 from the health insurance administration fund for the fiscal year beginning July 1, 2001, and ending June 30, 2002. Any unencumbered or unobligated balance in the health insurance administration fund at the end of the fiscal year shall be transferred to the health insurance surplus fund.

Sec. 18. Section 80.8, unnumbered paragraphs 2 and 3, Code 2001, are amended to read as follows:

The commissioner may delegate to the ~~members of the Iowa state patrol~~ peace officers of the department such additional duties in the enforcement of this chapter as the commissioner may deem proper and incidental to the duties now imposed upon them by law.

The salaries of all members and employees of the department and the expenses of the department shall be provided for by the legislative appropriation therefor. The compensation of ~~the members of the Iowa state patrol~~ peace officers of the department shall be fixed

according to grades as to rank and length of service by the commissioner with the approval of the governor. The ~~members of the Iowa state patrol~~ peace officers shall be paid additional compensation in accordance with the following formula: When ~~members of the Iowa state patrol~~ peace officers have served for a period of five years their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described five-year period; when ~~members thereof~~ peace officers have served for a period of ten years their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described ten-year period, such sums being in addition to the increase provided herein to be paid after five years of service; when ~~members thereof~~ peace officers have served for a period of fifteen years their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described fifteen-year period, such sums being in addition to the increases previously provided for herein; when ~~members thereof~~ peace officers have served for a period of twenty years their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described twenty-year period, such sums being in addition to the increases previously provided for herein. While on active duty each ~~member~~ peace officer shall also receive a flat daily sum as fixed by the commissioner with the approval of the governor for meals ~~while away from the office to which the member has been assigned and within the member's district.~~

Sec. 19. **TERMINAL LIABILITY HEALTH INSURANCE SURCHARGE.** For the fiscal year beginning July 1, 2001, and ending June 30, 2002, the department of personnel shall include in the rates for the Wellmark Blue Cross/Blue Shield Program 3 Plus, Wellmark Blue Cross/Blue Shield Program 3 plus with a comprehensive major medical overlay, and Iowa Select Preferred Provider Organization health insurance plans a surcharge, as determined by the department of management, on only the employer's share of the health insurance premium cost to fund the state's share of the terminal liability of the existing Wellmark health insurance contract. The department of revenue and finance shall collect the surcharge from state agencies, the state fair board, state board of regents, and the eight judicial district departments of correctional services. The proceeds of the surcharge shall be credited to the terminal liability insurance fund. The health insurance plans provided to state employees covered by the state police officers council collective bargaining agreement are exempt from the surcharge provided in this section.

Sec. 20. **NEW SECTION. 421.46 TERMINAL LIABILITY HEALTH INSURANCE FUND.**

1. A terminal liability health insurance fund is created in the state treasury under the control of the department of personnel. The proceeds of the terminal liability health insurance fund shall be used by the department of personnel to pay the state's share of the terminal liability of the existing health insurance contract administered by the department of personnel. The moneys appropriated to the terminal liability health insurance fund plus any additional moneys appropriated or collected pursuant to this Act or other Acts of the general assembly shall constitute the total amount due to pay the terminal liability specified in this section.

2. The proceeds of the terminal liability health insurance fund shall also be used by the department of revenue and finance to reimburse state agencies for expenditures related to the payment of the health insurance plans surcharge for the terminal liability of the health insurance contract for state employees. The department of revenue and finance shall provide guidelines and forms for documentation that a state agency shall submit for the health insurance reimbursement. *\*The reimbursement shall be restricted to the amount of moneys appropriated from the general fund of the state that is used to pay the terminal liability of health insurance for state employees for the fiscal year.\**

3. Notwithstanding section 8.33, any unencumbered or unobligated balance remaining in the terminal liability health insurance fund at the close of a fiscal year shall not revert.

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

*\*However, upon total payment of the terminal liability of the existing health insurance contract administered by the department of personnel, any remaining balance in the terminal liability health insurance fund shall revert to the credit of the unassigned revenue fund administered by the Iowa comprehensive underground storage tank fund board.\**

Sec. 21. Section 455G.3, Code 2001, is amended by adding the following new subsection:

**NEW SUBSECTION.** 6. There is appropriated from the unassigned revenue fund administered by the Iowa comprehensive underground storage tank fund<sup>2</sup> board to the following funds for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts as specified:

- a. To the terminal liability health insurance fund created in section 421.46:  
..... \$ 9,000,000
- b. To the salary adjustment fund provided for in section 6 of this Act:  
..... \$ 9,000,000

This subsection is repealed effective July 1, 2002.

*Approved May 30, 2001, with exceptions noted.*

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit House File 746, an Act relating to the compensation and benefits for public officials and employees, providing for related matters, and making appropriations. This bill is another example of the Legislature's short-sighted method of dealing with budget cuts for the coming fiscal year. While any successful business understands that you have to provide the resources necessary to maintain a capable workforce, the Legislature has reduced by over \$11 million the funding necessary to pay the increased costs of wages and benefits for all state employees.

For several years, the Legislative and Executive Branches have worked together to provide departments the resources necessary to pay for employee wage and health insurance increases. By doing so, departments do not have to reduce services to Iowans to pay personnel costs. This maintains a stable workforce and provides the opportunity to manage costs.

Unfortunately, the Legislature has intentionally underfunded these personnel costs, and the State will have no choice but to reduce services to cover these fixed costs. When the Department of Human Services does not have the resources to pay the increased costs of health insurance, there will be fewer case workers to protect children from abuse; when the Department of Revenue and Finance does not have the resources to pay these costs, there will be fewer workers to process tax refunds; when the Department of Natural Resources does not have the resources they need, there will be fewer park rangers and attendants to ensure the safety and upkeep of parks; when the Department of Transportation does not have the resources they need, there will be fewer snow plows clearing our roads; when the Board of Regents does not have the resources they need, there will be fewer class offerings at our State Universities.

This is, once again, an abdication of responsibility by the Legislature. It is the Legislature's responsibility to determine where budget cuts should be made and what services Iowans should be willing to do without because of those cuts. By arbitrarily cutting salary dollars, the burden falls on department heads and administrators to make those decisions. The people of Iowa deserve better from their elected Senators and Representatives.

<sup>1</sup> Item veto; see message at end of the Act

<sup>2</sup> Iowa comprehensive "petroleum" underground storage tank fund probably intended

While seriously underfunding these required appropriations, the Legislature continues its bad budget practice of providing one-time resources for on-going budget needs. The Legislature uses \$18 million in one-time funding to make up its \$79 million. Because salary adjustment dollars are allocated to departments as part of their base, this will increase the amount of new dollars that must be provided in next year's budget. Once again, the Legislature is simply putting off problems until next year — something they claim to have avoided by their actions.

For these reasons I reluctantly approve House File 746 on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the designated portion of Section 20, subsection 2. The language places a cap on the amount of salary resources that will be dedicated to dealing with the terminal liability issue. While the Legislature has identified \$18 million for this purpose, the actual need will likely be around \$21 million. By not providing a mechanism to deal with the entire cost, state departments would have to come up with the balance of the needed funds. Given the sorry nature of the Legislative budgets for many departments, this is an unreasonable expectation.

I am unable to approve the designated portion of Section 20, subsection 3. This would require that any remaining balance in the terminal liability health insurance fund revert to the credit of the unassigned revenue fund administered by the Iowa comprehensive underground storage tank fund board.

The Terminal Liability Fund contains resources for a variety of sources, including the Road Use Tax Fund, grant moneys, and federal funds. It would be unconstitutional to transfer excess Road Use Tax Fund moneys to the underground storage tank fund. It would also subject the state to federal repayment with possible penalties and interest to transfer remaining federal funds to the underground storage tank fund.

For the above reasons, I hereby respectfully approve House File 746, with the exceptions noted above.

Sincerely,  
THOMAS J. VILSACK, *Governor*

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## CHAPTER 191

### APPROPRIATIONS — HUMAN SERVICES

*H.F. 732*

**AN ACT** relating to appropriations for the department of human services and including other provisions and appropriations involving human services and health care, and providing effective dates.

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

#### Section 1. EARLY CHILDHOOD FUNDING.

1. The appropriations made in 1998 Iowa Acts, chapter 1218, section 2, and 2000 Iowa Acts, chapter 1228, section 2, subsection 1, paragraph "b", from the fund created in section 8.41 to the department of human services for the fiscal year beginning July 1, 2001, and ending



June 30, 2002, from moneys received under the federal temporary assistance for needy families (TANF) block grant shall be used for funding of community-based programs targeted to children from birth through five years of age, developed by community empowerment areas as provided in this section.

2. The department may transfer federal temporary assistance for needy families block grant funding appropriated and allocated in this section to the child care and development block grant in accordance with federal law as necessary to comply with the provisions of this section. The funding shall then be provided to community empowerment areas for the fiscal year beginning July 1, 2001, in accordance with all of the following:

a. The area must be approved as a designated community empowerment area by the Iowa empowerment board.

b. The maximum funding amount a community empowerment area is eligible to receive 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 appropriated for fiscal year 2001-2002 from the TANF block grant to fund community-based programs targeted to children from birth through five years of age developed by community empowerment areas.

c. A community empowerment area receiving funding 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 shall provide technical assistance in identifying and meeting the federal requirements.

d. The availability of funding provided under this section is subject to changes in federal requirements and amendments to Iowa law.

3. The moneys distributed in accordance with this section shall be used by communities 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 a primary emphasis on low-income families and children from birth to five years of age. Moneys shall be provided in a flexible manner to communities, and shall be used to implement strategies identified by the communities to achieve such purposes. The strategies may include but are not limited to developing capacity for regular child care, sick child care, night shifts child care, and emergency child care; enhancing linkages between the head start and early head start programs, early childhood development programs, and child care assistance programs; and implementing other strategies to enhance access to child care. The moneys may be used to either build capacity or for support of ongoing efforts. In addition to the full-time equivalent positions funded in this Act, 1.00 full-time equivalent position is authorized and the department may use funding appropriated in this section for provision of technical assistance and other support to communities developing and implementing strategies with moneys distributed in accordance with this section.

4. Moneys which are subject to this section which 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. 2. 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, 2001, and ending June 30, 2002, from moneys received under the federal temporary assistance for needy families block grant pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, which are federally appropriated for the federal fiscal years beginning October 1, 1999, and ending September 30, 2000, beginning October 1, 2000, and ending September 30, 2001, and beginning October 1, 2001, and ending September 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

Moneys appropriated in this section shall be used in accordance with the federal law making the funds available, applicable Iowa law, appropriations made from the general

fund of the state in this Act for the purpose designated, and administrative rules adopted to implement the federal and Iowa law. If actual federal revenues credited to the fund created in section 8.41 through June 30, 2002, are less than the amounts appropriated in this section, the amounts appropriated shall be reduced proportionately and the department may reduce expenditures as deemed necessary by the department to meet the reduced funding level:

1. To be credited to the family investment program account and used for assistance under the family investment program under chapter 239B:

..... \$ 39,287,318

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:

..... \$ 20,830,113

3. For field operations:

..... \$ 12,885,790

4. For general administration:

..... \$ 3,238,614

5. For local administrative costs:

..... \$ 2,122,982

6. For state child care assistance:

..... \$ 28,638,329

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.

7. For emergency assistance:

..... \$ 2,846,432

8. For mental health and developmental disabilities community services:

..... \$ 4,349,266

9. For child and family services:

..... \$ 23,096,571

10. For child abuse prevention:

..... \$ 731,000

11. For pregnancy prevention grants on the condition that family planning services are funded:

..... \$ 2,514,413

Pregnancy prevention grants shall be awarded to programs in existence on or before July 1, 2001, 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, 2001, 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 age 13 or older but younger than age 18 within the geographic area to be served by the grant.

12. For technology needs and other resources necessary to meet federal welfare reform reporting, tracking, and case management requirements:

..... \$ 1,182,217

13. For supervised community treatment under child and family services:

..... \$ 300,000

14. For volunteers:	\$	42,663
.....		
15. For individual development accounts under chapter 541A:	\$	250,000
.....		
16. 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
.....		
*17. To be credited to the Iowa marriage initiative grant fund created in section 234.45:	\$	500,000
.....		

a. The moneys credited to the Iowa marriage initiative grant fund pursuant to this subsection are appropriated to the department for the fiscal year beginning July 1, 2001, and ending June 30, 2002, to be used in accordance with this subsection.

b. The department shall establish an Iowa marriage initiative grant program to fund services to support marriage and to encourage the formation and maintenance of two-parent families that are secure and nurturing.

c. The program shall require that a grantee be a nonprofit organization incorporated in this state with successful experience in facilitating marriage promotion activities, working with various faith-based organizations and the leaders of the organizations, using media resources in promoting marriage, making presentations to service and faith-based organizations, and in raising private funding for activities that support marriage.

d. The program activities funded by a grant shall include but are not limited to working with individuals who are authorized to solemnize a marriage under section 595.10 in utilizing premarital diagnostic tools, to implement marriage agreements developed by such individuals that provide for an appropriate engagement period and premarital and postmarital counseling, and to use volunteer mentors in program activities.

e. Grants shall be awarded in a manner that results in provision of services in an equal number of urban and rural geographic areas. The department shall implement the grant program so that the request for proposals is issued on or before October 1, 2001, and so that any grants are awarded on or before January 1, 2002. A grantee shall be required to submit a quarterly financial report to the department and to the legislative fiscal bureau and shall be subject to an annual independent evaluation to assess accomplishment of the purposes listed in paragraph "b".

f. The department shall provide a copy of the request for proposals and shall submit a report concerning the proposals received and grants awarded to those persons designated by this Act to receive reports. The department may adopt emergency rules to implement the provisions of this subsection.\*

18. \*The department shall report on or before December 15, 2001, to the governor and to the persons designated by this Act to receive reports providing a detailed analysis as to how federal temporary assistance for needy families block grant funding was expended during the previous fiscal year to achieve the four purposes for the funding as outlined in 42 U.S.C. § 601(a). For each category of expenditure, the analysis shall identify which of the four purposes was addressed and the amount expended.\*

Of the amounts appropriated in this section, \$11,612,112 for the fiscal year beginning July 1, 2001, shall be transferred to the appropriation of the federal social services block grant for that fiscal year.

Eligible funding available under the federal temporary assistance for needy families block grant that is not appropriated or not otherwise expended shall be considered reserved for economic downturns and welfare reform purposes and is subject to further state appropriation to support families in their movement toward self-sufficiency.

Sec. 3. FAMILY INVESTMENT PROGRAM ACCOUNT.

1. Moneys credited to the family investment program (FIP) account for the fiscal year beginning July 1, 2001, and ending June 30, 2002, shall be used in accordance with the following requirements:

a. The department shall provide assistance in accordance with chapter 239B.

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

b. The department shall continue the special needs program under the family investment program.

c. The department shall continue to comply with federal welfare reform data requirements pursuant to the appropriations made for that purpose.

d. The department shall continue to make entrepreneurial training available to families receiving assistance under the family investment program. The department may contract for these services.

e. (1) The department shall continue expansion of the electronic benefit transfer program as necessary to comply with federal requirements. Notwithstanding 1998 Iowa Acts, chapter 1218, section 5, subsection 1, paragraph "d", 1999 Iowa Acts, chapter 203, section 5, subsection 1, paragraph "d", and 2000 Iowa Acts, chapter 1228, section 4, subsection 1, paragraph "e", the target date for statewide implementation of the program is October 1, 2002.

*\*(2) It is the intent of the general assembly that the electronic benefits transfer program shall include the capability for child care service providers to submit billings electronically and to receive payment through electronic funds transfer, and the capability to include electronic verification of medical assistance eligibility.\**

(3) It is the intent of the general assembly that electronic funds transfer system equipment provided by a retailer participating in the program shall be utilized to the extent practicable for electronic benefits transfer transactions for the purchase of food from the retailer.

2. Notwithstanding 2000 Iowa Acts, chapter 1226, section 5, subsection 4, moneys allocated for electronic benefit transfer development pursuant to 2000 Iowa Acts, chapter 1226, section 5, subsection 2, paragraph "e", subparagraph (9), which remain unobligated or unexpended at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for the purposes designated in the succeeding fiscal year.

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

..... FTEs 8.00

4. The department may transfer funds in accordance with section 8.39, either federal or state, to or from the child care appropriations made for the fiscal year beginning July 1, 2001, if the department deems this would be a more effective method of paying for JOBS program child care, to maximize federal funding, or to meet federal maintenance of effort requirements.

5. Moneys appropriated in this Act and credited to the family investment program account for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are allocated as follows:

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

..... \$ 5,697,825

(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) Based upon the annual evaluation report concerning each grantee funded by previously appropriated funds and through the solicitation of additional grant proposals, the family development and self-sufficiency council may use the allocated funds to renew or expand existing grants or award new grants. In utilizing the funding allocated in this lettered paragraph, the council shall give consideration, in addition to other criteria established by the council, to a grantee's intended use of local funds with a grant and to whether approval of a grant proposal would expand the availability of the program's services.

(3) Family development and self-sufficiency grantees shall not supplant previous local funding with state or federal funds.

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

(4) The department shall continue to implement the family development and self-sufficiency grant program statewide during FY 2001-2002.

b. For income maintenance reengineering:

..... \$ 700,000

c. For the diversion program and incentive grants as follows:

(1) For the diversion subaccount of the family investment program account:

..... \$ 3,200,000

Moneys allocated to the diversion subaccount shall be used to continue the pilot initiative of providing incentives to assist families who meet income eligibility requirements for the family investment program in obtaining or retaining employment, to assist participant families in overcoming barriers to obtaining employment, and to assist families in stabilizing employment and in reducing the likelihood of the family returning to the family investment program. Incentives may be provided in the form of payment or services. The department may limit the availability of the pilot initiative on the basis of geographic area or numbers of individuals provided with incentives. The department shall attempt to assess and screen individuals who would most likely benefit from the services. The department shall continue the diversion initiative in the fiscal year 2001-2002. In addition to the full-time equivalent positions authorized in this Act, 1.00 FTE is authorized and the department may use funds allocated for the diversion program to facilitate community investment in welfare reform and to support continuation of the diversion program. The department may grant diversion moneys to the level of the entity operating an initiative. The department may adopt additional eligibility criteria 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 incentives would not be provided.

(2) For continuation of innovative strategies on a statewide or pilot project basis for supporting job retention, family structure, or both, including services to noncustodial parents and young parents:

..... \$ 650,000

(3) Of the moneys allocated in subparagraph (2), not more than \$250,000 shall be used to develop or continue community-level parental obligation pilot projects. A pilot project shall be operated with the goal of assisting parents who are living apart in meeting their parental obligations and in supporting their children. A pilot project may also seek to prevent the separation of families by including families at risk of separation in project services. Any pilot project shall maximize the use of existing community resources for family counseling, legal services, mediation, job training and job skills development, substance abuse treatment and prevention, health maintenance, and personal mentoring. Local communities shall also be encouraged to provide financial resources.

(a) Notwithstanding any other provision of law to the contrary, the department shall develop procedures for the pilot projects to expedite all of the following:

(i) The establishment and adjustment of support obligations, with the consent of both parents, in a manner which may deviate from the child support guidelines.

(ii) Changes in income withholding orders based on individual case circumstances.

(iii) Satisfaction of a portion of support amounts owed to the state based on cooperation and compliance by the noncustodial parent with project requirements.

(iv) Adjustment of visitation and shared custody arrangements in a manner which enhances the ability of each parent to meet parental obligations.

(b) The department shall adopt rules for the development, operation, and monitoring of a project; to establish the minimum required amount of community support; to establish expedited procedures; and to establish other criteria and procedures as appropriate.

(c) The department shall use the funds authorized in this subparagraph to employ 1.00 full-time equivalent position to manage the pilot project or projects. The department shall also use the authorized funds to employ other full-time equivalent positions or to provide services, as necessary, to assist in the coordination, development, and operation of community-level pilot

projects and to achieve the expedited procedures established. Any full-time equivalent positions authorized in this subparagraph subdivision are in addition to any other full-time equivalent positions authorized by law.

(4) Of the moneys allocated in subparagraph (2), not more than \$200,000 shall be used to continue to study the impact that moving unemployed family investment program parents into employment has on the well-being of the children, the parent, and the family. The department shall include in this well-being study a method of actual contact with the families and children, and shall consider broad-based impacts, such as educational achievement, health status, housing stability, family stability, and use of supportive social services. The department shall also seek funding through foundations and the federal government in order to supplement the funding for this study. The results of the study shall be submitted to the persons required by this Act to receive reports.

(5) Of the moneys allocated in subparagraph (2), not more than \$100,000 shall be used for providing additional incentive payments to contracted agencies who demonstrate success at completing well-being visits for families terminated from the family investment program under a limited benefit plan. The department shall use these funds to increase payments to agencies who complete a higher percentage of well-being visits, who achieve a significant percentage of visits in a face-to-face format, or who are able to observe and interact with the children during a significant percentage of visits.

d. For the food stamp employment and training program:

..... \$ 150,000

6. Of the child support collections assigned under the family investment program, 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 family investment program account and a portion may be used to increase recoveries.

7. The department may adopt emergency administrative rules for the family investment, food stamp, and medical assistance programs, if necessary, to comply with federal requirements. Prior to adoption of the rules, the department shall consult with the welfare reform council and the chairpersons and ranking members of the joint appropriations subcommittee on human services.

8. The department may continue the initiative to streamline and simplify the employer verification process for applicants, participants, and employers in the administration of the department's programs. The department may contract with companies collecting data from employers when the information is needed in the administration of these programs. The department may limit the availability of the initiative on the basis of geographic area or number of individuals.

9. The department may adopt emergency rules to increase the mileage rate reimbursement paid to JOBS program participants above the current rate of 16 cents per mile.

10. The department may adopt emergency rules to implement 2001 Iowa Acts, Senate File 198,<sup>1</sup> that extends the time limitation for funding of postsecondary education for family investment program participants, if enacted by the Seventy-ninth General Assembly, 2001 Session.

Sec. 4. 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, 2001, and ending June 30, 2002, 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 account and used for family investment program assistance under chapter 239B:

..... \$ 36,150,000

1. The department of workforce development, in consultation with the department of human services, shall continue to utilize recruitment and employment practices to include former and current family investment program recipients.

<sup>1</sup> Chapter 128 herein

2. The department of human services shall continue to work with the department of workforce development and local community collaborative efforts to provide support services for family investment program 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.

3. Of the funds appropriated in this section, \$9,564,352 is allocated for the JOBS program.

4. 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. The purpose of the homes or arrangements is to provide a supportive and supervised living arrangement for minor parents receiving assistance under the family investment program who, under chapter 239B, may receive assistance while living in an alternative setting other than with their parent or legal guardian.

Sec. 5. EMERGENCY ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For emergency assistance to families with dependent children for homeless prevention programs:

..... \$ 10,000

1. The emergency assistance provided for in this section and federal moneys appropriated for this purpose in this Act shall be available beginning October 1 of the fiscal year and shall be provided only if all other publicly funded resources have been exhausted. Specifically, emergency assistance is the program of last resort and shall not supplant assistance provided by the low-income home energy assistance program (LIHEAP), county general relief, and veterans affairs programs. The department shall establish a \$500 maximum payment, per family, in a twelve-month period. The emergency assistance includes, but is not limited to, assisting people who face eviction, potential eviction, or foreclosure, utility shutoff or fuel shortage, loss of heating energy supply or equipment, homelessness, utility or rental deposits, or other specified crisis which threatens family or living arrangements. The emergency assistance shall be available to migrant families who would otherwise meet eligibility criteria. The department may contract for the administration and delivery of the program. The program shall be terminated when funds are exhausted.

2. For the fiscal year beginning July 1, 2001, the department shall continue the process for the state to receive refunds of utility and rent deposits, including any accrued interest, for emergency assistance recipients which were paid by persons other than the state. The department shall also receive refunds, including any accrued interest, of assistance paid with funding available under this program. The refunds received by the department under this subsection shall be deposited with the moneys of the appropriation made in this section and used as additional funds for the emergency assistance program. Notwithstanding section 8.33, moneys received by the department under this subsection which remain after the emergency assistance program is terminated and state or federal moneys in the emergency assistance account which remain unobligated or unexpended at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure when the program resumes operation on October 1 in the succeeding fiscal year.

3. Of the funds appropriated in this section, \$10,000 is allocated to the community voice mail program to continue the existing program. The funds shall be made available beginning July 1, 2001. The community voice mail program shall submit semiannual reports to the department which, at a minimum, specify, on a county basis, the unduplicated number of households participating in the program for the previous six-month period. The report shall be submitted no later than the last business day of the month immediately following the end of the six-month period.

Sec. 6. 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, 2001, and ending June 30, 2002, 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:

.....	\$	6,700,000
.....	FTEs	321.40

1. The director of human services, within the limitations of the moneys appropriated in this section, or moneys transferred from the family investment program account for this purpose, shall establish new positions and add employees to the child support recovery 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.

2. Nonpublic assistance application fees and other user fees received by the child support recovery unit are appropriated and shall be used for the purposes of the child support recovery program. The director of human services may add positions within the limitations of the amount appropriated for salaries and support for the positions.

3. The director of human services, in consultation with the department of management and the legislative fiscal committee, is authorized to receive and deposit state child support incentive earnings in the manner specified under applicable federal requirements.

4. a. The director of human services may establish new positions and add state employees to the child support recovery 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 program, 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 200 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.

5. If initiated by the judicial branch, the child support recovery unit shall continue to work with the judicial branch to determine the feasibility of implementing a pilot project utilizing a court-appointed referee for judicial determinations on child support matters. The extent and location of any pilot project shall be jointly developed by the judicial branch and the child support recovery unit.

6. Surcharges paid by obligors and received by the unit as a result of the referral of support delinquency by the child support recovery unit to any private collection agency are appropriated to the department and shall be used to pay the costs of any contracts with the collection agencies.

7. The department shall expend up to \$51,000, including federal financial participation, for the fiscal year beginning July 1, 2001, 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.

8. 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. 7. 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, 2001, and ending June 30, 2002, 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, 2001 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:

..... \$ 413,150,000

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

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. Notwithstanding section 8.39, the department may transfer funds appropriated in this section to a separate account established in the department's case management unit for expenditures required to provide case management services for mental health, mental retardation, and developmental disabilities services under medical assistance 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 appropriated in this section.

3. a. The county of legal settlement shall be billed for 50 percent of the nonfederal share of the cost of case management provided for adults, day treatment, and partial hospitalization in accordance with sections 249A.26 and 249A.27, and 100 percent of the nonfederal share of the cost of care for adults which is reimbursed under a federally approved home and community-based waiver that would otherwise be approved for provision in an intermediate care facility for persons with mental retardation, provided under the medical assistance program. The state shall have responsibility for the remaining 50 percent of the nonfederal share of the cost of case management provided for adults, day treatment, and partial hospitalization. For persons without a county of legal settlement, the state shall have responsibility for 100 percent of the nonfederal share of the costs of case management provided for adults, day treatment, partial hospitalization, and the home and community-based waiver services. The case management services specified in this subsection shall be billed to a county only if the services are provided outside of a managed care contract.

b. The state shall pay the entire nonfederal share of the costs for case management services provided to persons 17 years of age and younger who are served in a medical assistance home and community-based waiver program for persons with mental retardation.

c. Medical assistance funding for case management services for eligible persons 17 years of age and younger shall also be provided to persons residing in counties with child welfare decategorization projects implemented in accordance with section 232.188, provided these projects have included these persons in their service plan and the decategorization project county is willing to provide the nonfederal share of costs.

d. When paying the necessary and legal expenses of intermediate care facilities for persons with mental retardation (ICFMR), the cost payment requirements of section 222.60 shall be considered fulfilled when payment is made in accordance with the medical assistance payment rates established for ICFMRs by the department and the state or a county of legal settlement is not obligated for any amount in excess of the rates.

e. The department shall revise the provisions of the home and community-based waiver for persons with brain injury to eliminate the eligibility requirement that a person must have been a resident of a medical institution for at least thirty consecutive days at the time of initial application. Unless a county has paid or is paying for the nonfederal share of the cost of a person's home and community-based waiver services or ICFMR placement 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 at the ICFMR level of care for a person due to the person reaching the age of majority, the state shall pay the nonfederal share of the costs of an eligible person's services under the home and community-based waiver for persons with brain injury.

4. 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.

5. Of the funds appropriated to the Iowa department of public health for substance abuse grants, \$950,000 for the fiscal year beginning July 1, 2001, shall be transferred to the department of human services for an integrated substance abuse managed care system.

6. In administering the medical assistance home and community-based waiver for persons with physical disabilities, the total number of openings for persons with physical disabilities served at any one time shall be limited to the number approved in 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.

7. 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 (EPSDT) funding under medical assistance, to the extent possible, to implement the screening component of the EPSDT program through the school system. The department may enter into contracts to utilize maternal and child health centers, the public health nursing program, or school nurses in implementing this provision.

\*8. *The department shall continue the case study for outcome-based performance standards for programs serving persons with mental retardation or other developmental disabilities proposed pursuant to 1994 Iowa Acts, chapter 1170, section 56.\**

9. The department shall continue the medical assistance home and community-based services waiver to allow children with mental retardation, who would otherwise require ICF/MR care, to be served in out-of-home settings of up to eight beds which meet standards established by the department. Up to \$1,487,314 of the funds appropriated in this section may be used for the costs of the waiver.

10. The department shall continue working with county representatives in aggressively implementing the rehabilitation option for services to persons with chronic mental illness under the medical assistance program, and county funding shall be used to provide the match for the federal funding, except for individuals with state case status, for whom state funding shall provide the match.

11. If the health care financing administration approves a waiver request from the department, the department shall provide a period of 24 months of guaranteed eligibility for medical assistance family planning services, regardless of the change in circumstances of a woman who was a medical assistance recipient when a pregnancy ended.

12. The department shall aggressively pursue options for providing medical assistance or other assistance to individuals with special needs who become ineligible to continue receiv-

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

ing 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.

13. Of the moneys appropriated in this section, \$200,000 shall be used to increase reimbursement of child protection centers.

14. The department shall adopt rules to provide that an individual applying for the medically needy program is not required to reapply for the program unless the individual's income as disclosed in the initial application changes. The rules shall also provide that to the greatest extent possible, the application and continuing eligibility requirements for all medical assistance-related programs shall be consistent.

15. If federal funding is received, the department may participate in a federal home telecare pilot program intended to manage health care needs of subpopulations of Iowans and specifically including subpopulations of Iowans who require high utilization of health care services and represent a disproportionate share of consumption of health care services. The program shall be implemented as a collaboration of public, private, and academic participants and may include the participation of the department of human services, the department of elder affairs, and the Iowa department of public health, with the intent of showing cost savings in proactively managing diseases of selective populations through the utilization of communications technology and management protocols. The program may direct telecare services to persons with diagnoses of specific nonacute, chronic illnesses which may include but are not limited to chronic obstructive pulmonary disease, congestive heart disease, diabetes, and asthma. The telecare program may provide a proactive call center staffed by appropriate, licensed health care providers equipped with disease management protocols. For the purposes of this section, "telecare" shall include but is not limited to the interactive delivery of diagnostic, clinical, consultative, data, and educational services utilizing a transmission network which may include but is not limited to the live transmission of audio and video data.

\*16. *The department, in cooperation with the drug utilization review commission, shall review the use of nonsedating antihistamines for children and shall submit a report to the governor and the general assembly on or before November 15, 2001, regarding such use and providing a recommendation regarding the application of prior authorization requirements to these drugs.\**

Sec. 8. 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, 2001, and ending June 30, 2002, 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:

.....	\$	600,000
.....	FTEs	22.00

Sec. 9. 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, 2001, and ending June 30, 2002, 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:

.....	\$	8,400,000
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1. The department may transfer funds appropriated in this section to be used for the purpose of expanding health care coverage to children under the medical assistance pro-

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

gram. The department shall provide periodic updates to the general assembly of expenditures of funds appropriated in this section.

\*2. The department shall provide a report to the HAWK-I board and to the general assembly by January 15, 2002, specifying the actual cost reported by each participating insurer of providing monthly coverage to eligible children under the children's health insurance program.\*

3. Moneys in the HAWK-I trust fund are appropriated and shall be used to offset any program costs for the fiscal year beginning July 1, 2001, and ending June 30, 2002.

\*4. The department of human services shall seek a waiver from the health care financing administration of the United States department of health and human services to permit families with children who are eligible for medical assistance to elect to participate under the HAWK-I program in lieu of participation in the medical assistance program. If the waiver is approved, the department shall implement the provision.\*

Sec. 10. 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, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

..... \$ 8,700,000

\*1. The department shall receive input and recommendations from the chairpersons and ranking members of the joint appropriations subcommittee on human services prior to entering into or extending any managed care contract for mental health or substance abuse services.\*

2. The director of human services may establish up to 8.00 full-time equivalent positions to be assigned to the medical review unit and pharmacy unit of the fiscal agent if the director determines the employees are necessary to replace fiscal agent positions of the professional medical review staff and pharmacy staff, contingent upon termination of those staff positions with the fiscal agent. Employees in full-time positions that transition from private employment to state government employment under this unnumbered paragraph are exempt from testing, selection, and appointment provisions of chapter 19A and from provisions of collective bargaining agreements relating to the filling of positions.

In any managed care contract for mental health or substance abuse services entered into or extended by the department on or after July 1, 2001, the request for proposals shall provide for coverage of dual diagnosis mental health and substance abuse treatment provided at the state mental health institute at Mount Pleasant. To the extent possible, the department shall also amend any such contract existing on July 1, 2001, to provide for such coverage.

Sec. 11. STATE SUPPLEMENTARY ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For state supplementary assistance, funeral assistance, and the medical assistance home and community-based services waiver rent subsidy program:

..... \$ 19,550,000

1. 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.

2. If during the fiscal year beginning July 1, 2001, 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

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

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 Act to ensure that federal requirements are met. The department may adopt emergency rules to implement the provisions of this subsection.

3. The department may use up to \$75,000 of the funds appropriated in this section for a rent subsidy program for adult persons to whom all of the following apply:

a. Are receiving assistance under a medical assistance home and community-based services (HCBS) waiver.

b. Were discharged from a medical institution in which they have resided or were at risk of institutional placement. Within available funding and demonstrated need, the department may make subsidy funds available to children receiving services under a HCBS waiver for individuals with mental retardation in residential-based supported community living and HCBS waiver-eligible adults meeting criteria in paragraph "a" and this paragraph at any time on or after July 1, 1995.

The goal of the subsidy program shall be to encourage and assist in enabling persons who currently reside in a medical institution to move to a community living arrangement. An eligible person may receive assistance in meeting their rental expense and, in the initial two months of eligibility, in purchasing necessary household furnishings and supplies. The program shall be implemented so that it does not meet the federal definition of state supplementary assistance and will not impact 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.

Sec. 12. 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, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child care programs:

..... \$ 5,050,752  
1. a. Of the funds appropriated in this section, \$4,414,111 shall be used for state child care assistance in accordance with section 237A.13.

b. During the 2001-2002 fiscal year, the moneys deposited in the child care credit fund created in section 237A.28 are appropriated to the department to be used for state child care assistance in accordance with section 237A.13, in addition to the moneys allocated for that purpose in paragraph "a".

2. 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.

3. Of the funds appropriated in this section, \$636,641 is allocated for the statewide program for child care resource and referral services under section 237A.26.

4. 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 regions. Projections 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.

Sec. 13. 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, 2001, and

ending June 30, 2002, 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:

.....	\$	6,707,500
.....	FTEs	140.54

*\*It is the intent of the general assembly that beginning in the fiscal year commencing on July 1, 2002, the Iowa juvenile home at Toledo will serve only females. The department shall develop a plan which includes options for relocating the males at the Iowa juvenile home at Toledo. The options shall include but are not limited to developing a child in need of assistance program for males at the state training school at Eldora.\**

*\*The moneys appropriated in this subsection include funding for a parking lot project developed in cooperation with the city of Toledo and for two additional security guard staff positions.\**

2. For operation of the state training school at Eldora:

.....	\$	10,870,000
.....	FTEs	229.53

3. During the fiscal year beginning July 1, 2001, the population levels at the state juvenile institutions shall not exceed the population guidelines established under 1990 Iowa Acts, chapter 1239, section 21, as adjusted for additional beds developed at the institutions.

4. 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, 2001.

5. Within the amounts appropriated in this section, the department may transfer funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

*\*6. If the department receives notice from the department of inspections and appeals or any other entity that certifies a juvenile institution's compliance with certification requirements or determines compliance with regulatory requirements, that a juvenile institution has been found or cited for being out of compliance with a requirement, the department shall report the notice to those persons designated by this Act to receive reports. The report shall be made within thirty days of the date the notice was received by the department.\**

Sec. 14. CHILD AND FAMILY SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

.....	\$	106,000,000
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1. The department may transfer funds appropriated in this section as necessary to pay the nonfederal costs of services reimbursed under medical assistance 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 Act for general administration and for field operations for resources necessary to implement and operate the services funded in this section.

2. a. Of the funds appropriated in this section, up to \$28,137,020 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, 2001, annualization of a region's current expenditures indicates a region is at risk of exceeding its group foster care expenditure target under section 232.143 by more than five percent, the department and juvenile court services shall examine all group foster care placements in that region 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

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

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. (1) Of the funds appropriated in this section, not more than \$6,987,000 is allocated as the state match funding for psychiatric medical institutions for children.

(2) The department may transfer all or a portion of the amount allocated in this lettered paragraph for psychiatric medical institutions for children (PMICs) to the appropriation in this Act for medical assistance.

d. Of the funds allocated in this subsection, \$1,354,063 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.

e. For the fiscal year beginning July 1, 2001, the requirements of section 232.143 applicable to the juvenile court and to representatives of the juvenile court shall be applicable instead to juvenile court services and to representatives of juvenile court services. The representatives appointed by the department of human services and by juvenile court services to establish the plan to contain expenditures for children placed in group foster care ordered by the court within the budget target allocated to the region shall establish the plan in a manner so as to ensure the moneys allocated to the region under section 232.143 shall last the entire fiscal year. Funds for a child placed in group foster care shall be considered encumbered for the duration of the child's projected or actual length of stay, whichever is applicable.

3. The department shall continue the goal that not more than 15 percent of the children placed in foster care funded under the federal Social Security Act, Title IV-E, may be placed in foster care for a period of more than 24 months.

4. In accordance with the provisions of section 232.188, the department shall continue the program to decategorize child welfare services funding in additional counties or clusters of counties.

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, 2001, state funding for shelter care paid pursuant to section 234.35, subsection 1, paragraph "h", shall be limited to \$7,513,084.

7. Of the funding appropriated in this section, up to \$617,079 may be used as determined by the department for any of the following purposes:

a. For general administration of the department to improve staff training efforts.

b. For oversight of termination of parental rights and permanency planning efforts on a statewide basis.

c. For personnel, assigned by the attorney general, to provide additional services relating to termination of parental rights and child in need of assistance cases.

d. For specialized permanency planning field operations staff.

8. The department may adopt administrative rules following consultation with child welfare services providers to implement outcome-based child welfare services pilot projects. The rules may include, but are not limited to, the development of program descriptions, provider licensing and certification standards, reimbursement and payment amounts, contract requirements, assessment and service necessity requirements, eligibility criteria, claims submission procedures, and accountability standards.

9. The department shall continue to make adoption presubsidy and adoption subsidy payments to adoptive parents at the beginning of the month for the current month. If the department receives any bonus or incentive payments from the federal government relating to adoption that may be used to supplement state funds, the department shall use a minimum of \$44,750 of such moneys for adoption recruitment.

10. Federal funds received by the state during the fiscal year beginning July 1, 2001, 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, shall be used as additional funding for services provided under this section. Notwithstanding section 8.33, moneys received by the department in accordance with the provisions of this subsection shall remain available for the purposes designated until June 30, 2003.

11. The department and juvenile court services shall continue to develop criteria for the department regional administrator and chief juvenile court officer to grant exceptions to extend eligibility, within the funds allocated, for intensive tracking and supervision and for supervised community treatment to delinquent youth beyond age 18 who are subject to release from the state training school, a highly structured juvenile program, or group foster care.

12. Of the moneys appropriated in this section, not more than \$627,100 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.

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

14. Of the moneys appropriated in this section, up to \$3,290,000 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.

a. Notwithstanding section 232.141 or any other provision of law, the amount allocated in this subsection shall be distributed to the judicial districts as determined by the state court administrator. The state court administrator shall make the determination of the distribution amounts on or before June 15, 2001.

b. The department shall eliminate the program to provide services or other support to reduce the number or length of out-of-home placements of children known as the "wrap-around funding program". The department may adopt emergency rules to implement this subsection.

c. The department of human services shall develop policies and procedures to ensure that the funds allocated in this subsection are spent only after all other reasonable actions have been taken to utilize other funding sources and community-based services. The policies and procedures shall be designed to achieve the following objectives relating to services provided under chapter 232:

(1) Maximize the utilization of funds which may be available from the medical assistance program including usage of the early and periodic screening, diagnosis, and treatment (EPSDT) program.

(2) Recover payments from any third-party insurance carrier which is liable for coverage of the services, including health insurance coverage.

(3) Pursue development of agreements with regularly utilized out-of-state service providers which are intended to reduce per diem costs paid to those providers.

d. Notwithstanding chapter 232 or any other provision of law, a district or juvenile court in a department of human services district 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 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 eight 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.

e. 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.

f. 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.

15. a. Of the funding appropriated in this section, \$5,292,000 is allocated to provide school-based supervision of children adjudicated under chapter 232, including not more than \$1,764,000 from the allocation in this section for court-ordered services. Not more than \$15,000 of the funding allocated in this subsection may be used for the purpose of training.

b. To the extent possible, the personnel providing school-based services shall be prepared with training or experience relating to gender-specific programming to best intervene with youth at risk of being found delinquent or determined to be a child in need of assistance.

16. The department shall maximize the capacity to draw federal funding under Title IV-E of the federal Social Security Act.

17. Any unanticipated federal funding that is received during the fiscal year due to improvements in the hours counted by the judicial branch under the claiming process for federal Title IV-E funding are appropriated to the department to be used for additional or expanded services and support for court-ordered services pursuant to section 232.141. Notwithstanding section 8.33, 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.

\*18. *The department may adopt emergency rules to modify the qualifications for rehabilitative treatment service providers to allow an individual with a bachelor's degree in social work to provide therapy and counseling and to implement other recommendations of the committee made up of department staff and providers of child welfare services that is charged with the development of proposals for regulatory improvements. The pertinent recommendations may include but are not limited to implementing "deemed" certification status for providers; addressing requirements for staff qualifications, ratios, and supervision; revising requirements for treatment plan development, review, and revision, and for treatment records; applying shared risk or loss provisions for retroactive audits; and access to the department's service review organization.\**

19. Notwithstanding section 234.39, subsection 5, and 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 and the subsidized guardianship program can be operated without loss of Title IV-E funds.

\*20. *Of the funds appropriated in this section, the department shall use \$700,000 for day treatment and aftercare services for juvenile females with provider selection made through a request for proposals process. The goal of providing the services is to ensure permanency, safety, and self-sufficiency for juvenile females.\**

Sec. 15. JUVENILE DETENTION HOME FUND. Moneys deposited in the juvenile detention home fund created in section 232.142 during the fiscal year beginning July 1, 2001, and ending June 30, 2002, are appropriated to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, for distribution as follows:

- 1. An amount equal to ten 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, 2000. Moneys appropriated for distribution in accordance with this paragraph 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, 2000. Notwithstanding section 232.142, subsection 3, the financial aid payable by the state under that provision for the fiscal year beginning July 1, 2001, shall be limited to the amount appropriated for the purposes of this paragraph.
- 2. For renewal of a grant to a county with a population between 168,000 and 175,000 for implementation of the county's runaway treatment plan under section 232.195:

.....	\$	80,000
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\* Item veto; see message at end of the Act

- 3. For grants to counties implementing a runaway treatment plan under section 232.195.
- 4. The remainder for additional allocations to county or multicounty juvenile detention homes, in accordance with the distribution requirements of subsection 1.

Sec. 16. **CENTRAL INTAKE FOR CHILD PROTECTION.** If specific statutory authorization is enacted by the Seventy-ninth General Assembly, 2002 Session, to establish a statewide central intake unit for receiving child abuse reports, there is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For establishment in accordance with law of a statewide central intake unit for receiving child abuse reports:

..... \$ 250,000

It is the intent of the general assembly to give prompt consideration to the report of any 2001 legislative interim study committee established by the legislative council regarding the establishment of a central intake unit for receiving child abuse reports.

Sec. 17. **COMMUNITY-BASED PROGRAMS.** There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For community-based programs, on the condition that family planning services are funded, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 531,415  
 ..... FTEs 1.00

1. Funds appropriated in this section shall be used to provide adolescent pregnancy prevention grants which comply with the requirements provided in 1997 Iowa Acts, chapter 208, section 14, subsections 1 and 2, and shall emphasize programs which target the middle school level.

2. It is the intent of the general assembly that the department of human services and the Iowa department of public health shall continue to identify existing abstinence education or community-based programs which comply with the requirements established in section 912, subchapter V, of the federal Social Security Act, as codified in 42 U.S.C. § 701 et seq. for the matching of federal funds.

3. Of the funds appropriated in this section, \$250,000 shall be used by the department for child abuse prevention grants.

Sec. 18. **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, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used by the division of children and family services for the purpose designated:

For the family support subsidy program:

..... \$ 2,089,858

The department may use up to \$267,000 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.

Sec. 19. **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, 2001, and ending June 30, 2002, 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):

..... \$ 46,000

Sec. 20. 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, 2001, and ending June 30, 2002, 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:

..... \$ 13,470,000  
..... FTEs 248.44

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:

..... \$ 7,650,000  
..... FTEs 138.59

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:

..... \$ 17,992,500  
..... FTEs 354.46

The state mental health institute at Independence shall continue the 30 psychiatric medical institution for children (PMIC) beds authorized in section 135H.6, in a manner which results in no net state expenditure amount in excess of the amount appropriated in this subsection. Counties are not responsible for the costs of PMIC services described in this subsection. Subject to the approval of the department, with the exception of revenues required under section 249A.11 to be credited to the appropriation in this Act for medical assistance, revenues attributable to the PMIC beds described in this subsection for the fiscal year beginning July 1, 2001, and ending June 30, 2002, shall be deposited in the institute's account, including but not limited to any of the following revenues:

- a. The federal share of medical assistance revenue received under chapter 249A.
- b. Moneys received through client participation.
- c. Any other revenues directly attributable to the PMIC beds.

*\*The moneys appropriated in this subsection include funding for two additional security guard staff positions at the state mental health institute at Independence.\**

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:

..... \$ 5,717,500  
..... FTEs 109.47

a. Funding is provided in this subsection for the mental health institute at Mount Pleasant to continue 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 the fiscal year beginning July 1, 2001, and ending June 30, 2002, shall be deposited in the institute's account, including but not limited to all of the following revenues:

- (1) Moneys received by the state from billings to counties under section 230.20.
- (2) Moneys received from billings to the Medicare program.
- (3) Moneys received from a managed care contractor providing services under contract with the department or any private third-party payor.
- (4) Moneys received through client participation.
- (5) Any other revenues directly attributable to the dual diagnosis program.

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

(1) A county may split the charges between the county's mental health, mental retardation, and developmental disabilities services fund and the county's budget for substance abuse expenditures.

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

(2) 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.

(3) Prior to an individual's admission for dual diagnosis treatment, the individual shall have been screened through a county's single entry point process to determine the appropriateness of the treatment.

(4) 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.

(5) Notwithstanding section 8.33, mental health institutions<sup>2</sup> 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 mental health institute to meet credit obligations owed to counties as a result of year-end per diem adjustments for the dual diagnosis program.

5. Within the funds appropriated in this section, the department may transfer funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

6. As part of the discharge planning process at the state mental health institutes, the department shall provide assistance in obtaining eligibility for federal supplemental security income (SSI) to those individuals whose care at a state mental health institute is the financial responsibility of the state or a county.

*\*7. If the department receives notice from the department of inspections and appeals or any other entity that certifies a state mental health institute's compliance with certification requirements or determines compliance with regulatory requirements, that a state mental health institute has been found or cited for being out of compliance with a requirement, the department shall report the notice to those persons designated by this Act to receive reports. The report shall be made within thirty days of the date the notice was received by the department.\**

Sec. 21. 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, 2001, and ending June 30, 2002, 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:
 

.....	\$ 2,625,000
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- 2. For the state resource center at Woodward for salaries, support, maintenance, and miscellaneous purposes:
 

.....	\$ 1,790,000
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3. a. The department shall continue operating the state resource centers at Glenwood and Woodward with a net general fund appropriation. The amounts allocated in this section are the net amounts of state moneys projected to be needed for the state resource centers. The purposes of operating with a net general fund appropriation are 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 funders of services available from the state resource centers. The state resource centers shall not be operated under the net appropriation in a manner which results in a cost increase to the state or cost shifting between the state, the medical assistance program, counties, or other sources of funding for the state resource centers. Moneys appropriated in this section may be used throughout the fiscal year in the manner necessary for purposes of cash flow management, and for purposes of cash flow management the state resource centers may temporarily draw more than the amounts appropriated, provided the amounts appropriated are not exceeded at the close of the fiscal year.

b. Subject to the approval of the department, except for revenues under section 249A.11, revenues attributable to the state resource centers for the fiscal year beginning July 1, 2001,

<sup>2</sup> Mental health "institutes" probably intended

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

shall be deposited into each state resource center’s account, including but not limited to all of the following:

- (1) Moneys received by the state from billings to counties under section 222.73.
- (2) The federal share of medical assistance revenue received under chapter 249A.
- (3) Federal Medicare program payments.
- (4) Moneys received from client financial participation.
- (5) Other revenues generated from current, new, or expanded services which the state resource center is authorized to provide.

c. For the purposes of allocating the salary adjustment fund moneys appropriated in another Act, the state resource centers shall be considered to be funded entirely with state moneys.

d. Notwithstanding section 8.33, up to \$500,000 of a state resource center’s 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.

4. Within the funds appropriated in this section, the department may transfer funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

5. 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.

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

7. 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 overtime 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.

*\*8. If the department receives notice from the department of inspections and appeals or any other entity that certifies a state resource center’s compliance with certification requirements or determines compliance with regulatory requirements, that a state resource center has been found or cited for being out of compliance with a requirement, the department shall report the notice to those persons designated by this Act to receive reports. The report shall be made within thirty days of the date the notice was received by the department.\**

Sec. 22. SPECIAL NEEDS GRANTS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To provide special needs grants to families with a family member at home who has a developmental disability or to a person with a developmental disability:

..... \$ 53,212

Grants must be used by a family to defray special costs of caring for the family member to prevent out-of-home placement of the family member or to provide for independent living costs. The grants may be administered by a private nonprofit agency which serves people statewide provided that no administrative costs are received by the agency.

Sec. 23. MI/MR/DD STATE CASES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and

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

ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes 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:  
..... \$ 12,700,000

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, 2001, and ending June 30, 2002, 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 Act:  
..... \$ 19,560,000

1. Of the funds appropriated in this section, \$19,530,000 shall be allocated to counties for funding of community-based mental health and developmental disabilities services. The moneys 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.

*\*Of the funds allocated in this subsection, not more than \$25,000 may be used to provide matching funds for actuarial services and other technical assistance to implement the adult mental health, mental retardation, and developmental disabilities services funding decategorization pilot project implementation provisions as specified in this Act.\**

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.

Sec. 25. PERSONAL ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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

For continuation of a pilot project for the personal assistance services program in accordance with this section:

..... \$ 264,000

1. The funds appropriated in this section shall be used to continue the pilot project for the personal assistance services program under section 225C.46 in an urban and a rural area. Not more than 10 percent of the amount appropriated shall be used for administrative costs. The pilot project shall not be implemented in a manner which would require additional county or state costs for assistance provided to an individual served under the pilot project.

2. Beginning July 1, 2001, new applicants shall not be accepted into the pilot project. An individual receiving services under the pilot project as of June 30, 2001, shall continue receiving services until the individual voluntarily leaves the project or until another program with similar services exists.

Sec. 26. 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, 2001, and ending June 30, 2002, 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 including costs of legal services and other associated costs, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 1,300,000  
..... FTEs 25.00

2. Notwithstanding section 8.33, \$350,000 of the moneys appropriated in 2000 Iowa Acts, chapter 1228, section 27, that remain unexpended or unobligated at the close of the fiscal year shall not revert but shall remain available in the succeeding fiscal year to be used for the purposes of this section.

Sec. 27. 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, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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

..... \$ 49,100,000  
..... FTEs 2,128.50

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

b. The amount appropriated in this section includes increased funding of \$1,212,197 to address staffing issues in regard to child abuse assessment staff, social workers, and support staff performing related functions and for increased activities to improve cooperation between field staff, law enforcement, county attorneys, and mandatory reporters in addressing reports of child abuse.

\*2. Commencing with the fiscal year beginning July 1, 2001, the department shall eliminate the regional office administrative level within field operations. Essential staff within a regional office shall be transferred to be part of the staff of a county cluster office. Upon elimination of the regional office administrative level, the geographic areas established as departmental regions as of July 1, 2000, shall continue to be used for implementation of Code sections 232.2, 232.52, 232.68, 232.78, 232.102, 232.117, 232.127, 232.143, 232.182, 232.188, 234.35, and any provision in this Act or other law that utilizes the departmental regions for a geographic purpose. The director of human services shall assign any duties that are otherwise designated as duties of the regional administrator in section 232.143, this Act, or other provision of law or administrative rule to an appropriate person.\*

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

Sec. 28. ADDITIONAL FEDERAL FUNDING — FISCAL YEAR 2001-2002.

1. The provisions of this section are applicable for the fiscal year beginning July 1, 2001.

*\*2. It is the intent of the general assembly that the director of human services work on expanding the community partnership approach to child protection as established in Linn county with funding support from the Edna McConnell Clark foundation. The general assembly endorses the efforts by the department and local communities to develop community child protection systems that incorporate the four community partnership components used in Linn county and other Clark foundation sites. It is further intended that the director seek additional funding from the Clark foundation for expansion of the community partnership approach to other sites in the state and make use of the additional funding opportunities described in this section for such expansion.*

3. *It is the intent of the general assembly that the director of human services work to secure federal financial participation through Titles IV-E and XIX of the federal Social Security Act for services and activities that are currently funded with state, county, or community moneys. It is further intended that the director initially focus on securing targeted case management funding under medical assistance for state child protection staff and for services and activities currently funded with juvenile court services, county, or community moneys and state moneys used in combination with such moneys.\**

4. Additional federal financial participation secured for the fiscal year beginning July 1, 2001, and ending June 30, 2002, is appropriated to the department of human services for use as provided in this section. All of the following are applicable to the additional federal financial participation and efforts made to secure the federal financial participation:

a. The department may pursue federal approval of a state plan amendment to use medical assistance funding for targeted case management services. The population to be served through targeted case management services is children who are at risk of maltreatment or who are in need of protective services. The funding shall be based on the federal and state moneys available under the medical assistance program. For the additional federal financial participation received under the reimbursement methodology established for the services, a distribution plan shall attribute revenue to the cost sources upon which the reimbursement rates are based. In addition, of the additional federal funds received, a 5 percent set-aside shall be used for funding the revenue enhancement activities and for service delivery and results improvement efforts.

b. The director may use part or all of the additional federal financial participation in excess of \$3,000,000 received from medical assistance claims for child protection staff for not more than 93.00 full-time equivalent state child protection staff positions, including child abuse assessment positions, social workers, and support positions performing related functions. Positions added in accordance with this paragraph "b" are in addition to those authorized in the appropriation made in this Act for field operations.

c. The director may also use up to \$200,000 of the additional federal financial participation in excess of \$3,000,000 received from medical assistance claims for child protection staff for providing grants to communities to support the community partnership approach to child protection. Potential grantees may include child welfare funding decategorization projects, community empowerment area boards, or other community-based entities who, in partnership with the local departmental administrators, agree to implement the four community partnership components.

*\*5. It is the intent of the general assembly to consider additional proposals for providing other forms of targeted case management services and Title IV-E administrative claiming through counties, juvenile court services, or other community-based approaches.\**

6. The department may adopt emergency rules to implement the provisions of this section.

Sec. 29. 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, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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



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

.....	\$	11,020,029
.....	FTEs	385.00

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

*\*2. If an expenditure reduction or other cost-saving measure is deemed necessary to maintain expenditures within the amount appropriated to the department in this section, the department shall not implement the reduction or other measure in a manner which reduces service funding for disability rehabilitation programs, including, but not limited to, statewide supported employment programs.*

3. The department shall report to the governor, the general assembly, the legislative fiscal bureau, and the legislative service bureau, within thirty days of notice from the source of payment of the future receipt of any bonus, incentive, or other payments received from the federal government, court settlement payments, and any other payments received by the state that may be used to supplement state funds appropriated to the department.

4. It is the intent of the general assembly that the department commence negotiations with the state of Nebraska to provide a process to assist interested Nebraska residents in placing their children at a state resource center in this state, to allow the department and others to utilize the child protection center located in Omaha, and to explore other ways by which the two states may maximize the use of resources.\*

Sec. 30. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For development and coordination of volunteer services:

.....	\$	118,250
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Sec. 31. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES.

1. a. For the fiscal year beginning July 1, 2001, the reimbursement rate for nursing facilities shall be determined under a case mix reimbursement system. Nursing facilities reimbursed under the medical assistance program shall submit annual cost reports and additional documentation as required by rules adopted by the department.

b. (1) For the fiscal year beginning July 1, 2001, the department shall reimburse pharmacy dispensing fees using a single rate of \$5.17 per prescription or the pharmacy's usual and customary fee, whichever is lower.

*\*(2) The department shall increase the state's efforts to collect pharmaceutical manufacturer rebates in order to meet the national average relative to collection of such rebates.\**

(3) The department shall implement a series of prospective drug utilization review edits on targeted drugs to facilitate the cost effective use of these drugs. The edits shall be implemented in a manner that does not change the therapy or the therapeutic outcome for the patient.

*\*(4) The department shall implement a generic incentive patient copayment program to encourage the dispensing and use of less costly pharmaceutical alternatives. The copayment amount shall be 50 cents for a generic medication and \$2 for a brand-name medication.\**

(5) Beginning October 1, 2001, the department shall implement a state maximum allowable cost list for prescription drugs. The department shall consult with its fiscal agent and the drug utilization review commission, at no additional cost to the department, to determine the drug list that will provide the department with the most significant cost savings in the shortest period of time. In order to expedite implementation, the department may implement the drug list using a sole source contract during the initial year of implementation. The department shall report to the general assembly and the governor, on or before January 14,

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

2002, identifying the entity with which the department enters the contract to implement the program and whether the contract is a sole source contract. The report shall include a recommendation regarding continuation of the initial contract, and if the initial contract is a sole source contract, whether a sole source process or a request for proposals process should be used to determine the contractor for any subsequent contract entered into during the fiscal year beginning July 1, 2002.

c. For the fiscal year beginning July 1, 2001, reimbursement rates for inpatient and outpatient hospital services shall be reduced by three percent from the rates in effect on June 30, 2001. 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.

d. For the fiscal year beginning July 1, 2001, 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. For the fiscal year beginning July 1, 2001, reimbursement rates for home health agencies shall be reduced by three percent from the rates in effect on June 30, 2001.

f. For the fiscal year beginning July 1, 2001, 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, 2001, the reimbursement rates for dental services shall be reduced by three percent from the rates in effect on June 30, 2001.

h. Beginning July 1, 2001, the reimbursement rates for community mental health centers shall be reduced by three percent from the rates in effect on June 30, 2001.

i. For the fiscal year beginning July 1, 2001, the maximum reimbursement rate for psychiatric medical institutions for children shall remain at the rate in effect on June 30, 2001, based on per day rates for actual costs.

j. For the fiscal year beginning July 1, 2001, unless otherwise specified in this Act, all noninstitutional medical assistance provider reimbursement rates shall be reduced by three percent from the rates in effect on June 30, 2001, 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, the average reimbursement rates for health care providers eligible for use of the reimbursement methodology under that section shall be reduced by three percent from the rate in effect on June 30, 2001.

2. For the fiscal year beginning July 1, 2001, the maximum cost reimbursement rate for residential care facilities reimbursed by the department shall not be less than \$24.50 per day for the time period of July 1, 2001, through December 31, 2001, and shall not be less than \$25.14 per day for the time period of January 1, 2002, through June 30, 2002. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall not be less than \$17.50 per day for the time period of July 1, 2001, through December 31, 2001, and shall not be less than \$17.96 per day for the time period of January 1, 2002, through June 30, 2002.

3. For the fiscal year beginning July 1, 2001, the maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall not be less than \$471.06 per month for the time period of July 1, 2001, through December 31, 2001, and shall not be less than \$483.31 per month for the time period of January 1, 2002, through June 30, 2002.

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, 2000.

5. Notwithstanding section 234.38, in the fiscal year beginning July 1, 2001, the foster family basic daily maintenance rate and the maximum adoption subsidy rate for children ages 0 through 5 years shall be \$14.28, the rate for children ages 6 through 11 years shall be \$15.07, the rate for children ages 12 through 15 years shall be \$16.83, and the rate for children ages 16 and older shall be \$16.83.

6. For the fiscal year beginning July 1, 2001, the maximum reimbursement rates for social service providers shall remain at the rates in effect on June 30, 2001. However, the rates may be adjusted under any of the following circumstances:

a. If a new service was added after June 30, 2001, 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.

c. The department revises the reimbursement rates as part of the changes in the mental health and developmental disabilities services system initiated pursuant to 1995 Iowa Acts, chapter 206, and associated legislation.

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 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, 2001, the reimbursement rates for rehabilitative treatment and support services providers shall remain at the rates in effect on June 30, 2001.

9. For the fiscal year beginning July 1, 2001, the combined service and maintenance components of the reimbursement rate paid to a shelter care provider shall be based on the cost report submitted to the department. The maximum reimbursement rate shall be \$83.69 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.

10. For the fiscal year beginning July 1, 2001, the department shall calculate reimbursement rates for intermediate care facilities for persons with mental retardation at the 80th percentile.

11. For the fiscal year beginning July 1, 2001, for child care providers, the department shall set provider reimbursement rates based on the rate reimbursement survey completed in December 1998. The department shall set rates in a manner so as to provide incentives for a nonregistered provider to become registered.

12. For the fiscal year beginning July 1, 2001, 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 tobacco settlement endowment fund created in section 12.65, Code 2001.

*\*13. The department of human services shall review the disparity between the compensation provided to public employees who provide child welfare services relative to employees of private providers who have qualifications or job responsibilities that are comparable to the public employees. The department shall submit to the governor and to those persons designated by this Act to be provided with reports, a report of its review, including findings and a plan for reducing the disparity.\**

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

Sec. 32. TRANSFER AUTHORITY. Subject to the provisions of section 8.39, for the fiscal year beginning July 1, 2001, if necessary to meet federal maintenance of effort requirements or to transfer federal temporary assistance for needy families block grant funding to be used for purposes of the federal social services block grant or to meet cash flow needs resulting from delays in receiving federal funding or to implement, in accordance with this Act, targeted case management for child protection and for activities currently funded with juvenile court services, county, or community moneys and state moneys used in combina-

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

tion with such moneys, the department of human services may transfer within or between any of the appropriations made in this Act and appropriations in law for the federal social services block grant to the department for the following purposes, provided that the combined amount of state and federal temporary assistance for needy families block grant funding for each appropriation remains the same before and after the transfer:

1. For the family investment program.
2. For emergency assistance.
3. For child care assistance.
4. For child and family services.
5. For field operations.
6. For general administration.
7. MH/MR/DD/BI community services (local purchase).

This section shall not be construed to prohibit existing state transfer authority for other purposes.

Sec. 33. FRAUD AND RECOUPMENT ACTIVITIES. During the fiscal year beginning July 1, 2001, notwithstanding the restrictions in 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, and the department of human services may add not more than five full-time equivalent positions, in addition to those funded in this Act, 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 fiscal year beginning July 1, 1997.

2. The amount expended for the additional fraud and recoupment activities shall not exceed the amount of the projected increase in assistance recovered.

Sec. 34. PRIOR YEAR NONREVERSION.

1. Notwithstanding 2000 Iowa Acts, chapter 1221, section 5, moneys appropriated in<sup>3</sup> chapter 1221, section 1, subsection 1, paragraphs “f”, “h”, and “i”, for home health care services, for home health care services and habilitative day care for children with special needs, and for respite care services provided through home and community-based waiver services which are unexpended or unencumbered at the close of the fiscal year beginning July 1, 2000, and ending June 30, 2001, shall not revert but shall remain available to be used in the succeeding fiscal year to supplement the medical assistance appropriation made in this Act.

2. Notwithstanding 2000 Iowa Acts, chapter 1221, section 5, \$1,000,000 of the moneys appropriated in 2000 Iowa Acts, chapter 1221, section 3, for purchase of service contract providers which is unexpended or unencumbered at the close of the fiscal year beginning July 1, 2000, and ending June 30, 2001, shall not revert but shall remain available to be used in the succeeding fiscal year to supplement the medical assistance appropriation made in this Act.

Sec. 35. Section 135H.6, subsection 2, Code 2001, is amended to read as follows:

2. The proposed psychiatric institution is accredited by the joint commission on the accreditation of health care organizations, the commission on accreditation of rehabilitation facilities, the council on accreditation of services for families and children, or by any other ~~federally~~ recognized accrediting organization with comparable standards acceptable under federal regulation.

Sec. 36. Section 225B.8, Code 2001, is amended to read as follows:

225B.8 REPEAL.

This chapter is repealed July 1, ~~2001~~ 2006.

Sec. 37. NEW SECTION. 234.45 IOWA MARRIAGE INITIATIVE GRANT FUND.

1. An Iowa marriage initiative grant fund is established in the state treasury under the

<sup>3</sup> “2000 Iowa Acts,” probably intended

authority of the department of human services. The grant fund shall consist of moneys appropriated to the fund and notwithstanding section 8.33 such moneys shall not revert to the fund from which appropriated at the close of the fiscal year but shall remain in the Iowa marriage initiative grant fund. Moneys credited to the fund shall be used as directed in appropriations made by the general assembly for funding of services to support marriage and to encourage the formation and maintenance of two-parent families that are secure and nurturing.

2. It is the intent of the general assembly to credit to the Iowa marriage initiative grant fund, federal moneys provided to the state for the express purpose of supporting marriage or two-parent families.

Sec. 38. Section 232.142, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 6. A juvenile detention home fund is created in the state treasury under the authority of the department. The fund shall consist of moneys deposited in the fund pursuant to sections 321.218A and 321A.32A. The moneys in the fund shall be used for the costs of the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes in accordance with annual appropriations made by the general assembly from the fund for these purposes.

Sec. 39. Section 234.12A, subsection 1, paragraphs b and c, Code 2001, are amended to read as follows:

b. A retailer providing electronic funds transfer system equipment for transactions pursuant to the program shall be reimbursed ~~fifteen~~ seven cents for each approved transaction pursuant to the program utilizing the retailer's equipment.

c. A retailer that provides electronic funds transfer system equipment for transactions pursuant to the program and who makes cash disbursements pursuant to the program utilizing the retailer's equipment shall be paid a fee of ~~fifteen~~ seven cents by the department for each cash disbursement transaction by the retailer.

Sec. 40. Section 235A.16, subsection 2, Code 2001, is amended to read as follows:

2. a. Requests for child abuse information may be made orally by telephone where a person making such a request believes that the information is needed immediately and where information sufficient to demonstrate authorized access is provided. In the event that a request is made orally by telephone, a written request form shall nevertheless be filed within seventy-two hours.

b. The department of inspections and appeals may provide access to the single contact repository established under section 135C.33, subsection 6, for criminal and abuse history checks made by those employers, agencies, and other persons that are authorized access to child abuse information under section 235A.15 and are required by law to perform such checks.

Sec. 41. Section 239B.8, subsection 1, Code 2001, is amended to read as follows:

1. PARTICIPATION — EXEMPTIONS. A parent living in a home with a child for whom an application for family investment program assistance has been made or for whom the assistance is provided, and all other individual members of the family whose needs are included in the assistance shall be subject to a family investment agreement unless exempt under rules adopted by the department or unless any of the following conditions exists:

~~a. The individual is completely unable to participate in any agreement option due to disability.~~

~~b. a.~~ The individual is less than sixteen years of age and is not a parent.

~~e. b.~~ The individual is sixteen through eighteen years of age, is not a parent, and is attending elementary or secondary school, or the equivalent level of vocational or technical school, on a full-time basis.

~~d. c.~~ The individual is not a United States citizen and is not a qualified alien as defined in 8 U.S.C. § 1641.

Sec. 42. Section 321.218A, Code 2001, is amended to read as follows:

321.218A CIVIL PENALTY — DISPOSITION — REINSTATEMENT.

When the department suspends, revokes, or bars a person's driver's license or nonresident operating privilege for a conviction under this chapter, the department shall assess the person a civil penalty of two hundred dollars. However, for persons age nineteen or under, the civil penalty assessed shall be fifty dollars. The civil penalty does not apply to a suspension issued for a violation of section 321.180B. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in the ~~general fund of the state~~ juvenile detention home fund created in section 232.142. A temporary restricted license shall not be issued or a driver's license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 43. Section 321A.32A, Code 2001, is amended to read as follows:

321A.32A CIVIL PENALTY — DISPOSITION — REINSTATEMENT.

When the department suspends, revokes, or bars a person's driver's license or nonresident operating privilege under this chapter, the department shall assess the person a civil penalty of two hundred dollars. However, for persons age nineteen or under, the civil penalty assessed shall be fifty dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in the ~~general fund of the state~~ juvenile detention home fund created in section 232.142. A temporary restricted license shall not be issued or a driver's license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 44. Section 426B.2, subsection 3, Code 2001, is amended to read as follows:

3. The director of human services shall draw warrants on the property tax relief fund, payable to the county treasurer in the amount due to a county in accordance with subsection 1 and mail the warrants to the county auditors in ~~September~~ July and ~~March~~ January of each year.

Sec. 45. 2000 Iowa Acts, chapter 1228, section 8, is amended by adding the following new subsection:

NEW SUBSECTION. 18. Notwithstanding section 8.33, the state share of funds received by the state in this fiscal year or the succeeding fiscal year in a settlement with a fiscal agent shall not revert or be credited to the general fund but shall be treated as a repayment receipt and remain available to supplement funds appropriated in this section for the fiscal period beginning July 1, 2000, and for any appropriation made for medical assistance for the fiscal year beginning July 1, 2001.

Sec. 46. 2000 Iowa Acts, chapter 1228, section 9, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. 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. 47. 2000 Iowa Acts, chapter 1232, section 1, is amended to read as follows:

SECTION 1. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES ALLOWED GROWTH FACTOR ADJUSTMENT ~~AND ALLOCATIONS~~. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For distribution to counties of the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment, ~~in accordance with section 331.438, subsection 2, and section 331.439, subsection 3, and chapter 426B in accordance with law:~~

.....	\$	26,492,712
		<u>24,887,428</u>

The funding appropriated in this section is the allowed growth factor adjustment for fiscal year 2001-2002, and is allocated as follows:

1. For distribution to counties for fiscal year 2001-2002 in accordance with the formula in section 331.438, subsection 2, paragraph "b":

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

2. For deposit in the per capita expenditure target pool created in the property tax relief fund pursuant to section 426B.5, subsection 1:

..... \$ 10,492,712

12,492,712

~~In addition to the requirement of section 426B.5, subsection 1, paragraph "c", limiting eligibility for moneys appropriated in this paragraph to counties levying the maximum amount allowed, both of the following eligibility requirements are applicable:~~

~~a. In the fiscal year beginning July 1, 2000, the county's services fund ending balance under generally accepted accounting principles was equal to or less than 35 percent of the county's projected expenditures for that fiscal year.~~

~~b. The county is in compliance with the filing date requirements under section 331.403.~~

~~3. For deposit in the incentive and efficiency pool created in the property tax relief fund pursuant to section 426B.5, subsection 2:~~

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

~~4.3. For deposit in the risk pool created in the property tax relief fund pursuant to section 426B.5, subsection 3:~~

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

394,716

Sec. 48. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES (MH/MR/DD) ALLOWED GROWTH FACTOR ADJUSTMENT AND ALLOCATIONS — REVISED ALLOCATIONS FOR FY 2001-2002.

1. Notwithstanding any contrary provisions of sections 225C.7, 331.438, subsection 2, 331.439, subsection 3, and 426B.5, and 2000 Iowa Acts, chapter 1232, section 1, as amended by this Act, the moneys appropriated in this Act, for distribution to counties in the fiscal year beginning July 1, 2001, for purposes of the mental health and developmental disabilities (MH/DD) community services fund under section 225C.7, and for the allowed growth factor adjustment for services paid under a county's section 331.424A mental health, mental retardation, and developmental disabilities services fund shall be subject to withholding as provided in this section.

2. After applying the applicable statutory distribution formulas to the amounts specified in the appropriations made in this Act for the MH/DD community services fund and for allowed growth in section 47, as amended by this Act, the department of human services shall apply a withholding factor to adjust the actual amount of the funding to be distributed to an eligible individual county. An ending balance percentage for each county shall be determined by calculating the county's ending balance on a modified accrual basis under generally accepted accounting principles for the fiscal year beginning July 1, 2000, 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 the fiscal year. The withholding factor for a county shall be the following applicable percent:

a. For an ending balance percentage of less than 15 percent, a withholding factor of 0 percent.

b. For an ending balance percentage of 15 through 24 percent, a withholding factor of 12.8 percent.

c. For an ending balance percentage of 25 through 34 percent, a withholding factor of 35 percent.

d. For an ending balance percentage of 35 through 44 percent, a withholding factor of 67.25 percent.

e. For an ending balance percentage of 45 percent or more, a withholding factor of 100 percent.

3. The total withholding amounts applied pursuant to subsection 2 shall be equal to a withholding target amount of \$15,554,307 and the appropriations made in this Act for the MH/DD community services fund and for MH/MR/DD allowed growth as amended in section 47 of this Act, shall be reduced by the amounts necessary to attain the withholding target amount. If the department of human services determines that the amount to be withheld in accordance with subsection 2 is not equal to the target withholding amount, the department shall adjust the withholding factors listed in subsection 2 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 specified in subsection 2, paragraph "a".

4. Only those counties that are in compliance with the December 1, 2001, filing deadline for the county annual financial report in accordance with section 331.403 are eligible to receive a funding distribution under this section. The amount that would otherwise be available for distribution to a county that fails to so comply shall be proportionately distributed among the eligible counties.

5. The department of human services shall authorize the issuance of warrants payable to the county treasurer for the distribution amounts due to the counties eligible under this section and notwithstanding prior practice for the MH/DD community services fund, the warrants shall be issued in January 2002.

Sec. 49. EMERGENCY RULES. If specifically authorized by a provision of this Act, the department of human services or the mental health and developmental disabilities 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, unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later effective date is specified in the rules. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. 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. 50. REPORTS. Any reports or information required to be compiled and submitted under this Act shall be submitted to the chairpersons and ranking members of the joint appropriations subcommittee on human services, the legislative fiscal bureau, the legislative service bureau, and to the legislative caucus staffs on or before the dates specified for submission of the reports or information.

Sec. 51. EQUIPMENT PURCHASE MORATORIUM.

1. *\*Commencing on the effective date of this section, the department of human services shall eliminate nonessential equipment purchases otherwise payable from any appropriation or transfer made to the department for the fiscal years beginning July 1, 2000.\** Notwithstanding section 8.33, \$500,000 of the moneys appropriated and transfers made to the department of human services for the fiscal year beginning July 1, 2000, in 2000 Iowa Acts, chapters 1004, 1221, 1226, 1228, 1231, and 1232, and any other provision of law, that may be used for equipment purposes, 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 in the appropriations made in this Act until the close of the succeeding fiscal year.

2. Upon submission to the persons designated by this Act for receiving reports of a report describing the transfers being made, the department may transfer up to \$2,500,000 to the appropriation in this Act for general administration from moneys that are budgeted for purchase of equipment in other appropriations made to the department in this Act.



*\*Sec. 52. ADULT MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES FUNDING DECATEGORYIZATION PILOT PROJECT IMPLEMENTATION. The following target dates are applicable to implementation of the adult mental health, mental retardation, and developmental disabilities services funding decategorization pilot project under section 331.440A:*

1. *May 2001: Representatives of the pilot project and the department of human services shall visit Kansas City offices of the federal health care financing administration to present a concept paper and begin the development process for a section 1915b waiver application and section 1915c waiver amendment under the medical assistance program.*

2. *July 1, 2001: The department of human services shall transfer responsibility for administering state case payments to the pilot project counties, including the monthly payment amount per eligible person provisions under the state's administrative services only contract for state cases and the applicable percentage of field operations staff expenses.*

3. *October 2001: Federal social services block grant local purchase funding shall be directly transferred to the pilot project counties.*

4. *January 2002: State supplementary assistance funding and civil commitment funding shall be transferred to the pilot project counties and the section 1915b waiver application and the section 1915c waiver amendment under the medical assistance program shall be submitted to the health care financing administration of the United States department of health and human services.*

5. *July 2002: The state portion of the costs attributable to placements at a state mental health institute made from the pilot project counties, and the portion of funding for mental health and developmental disabilities services that is not county funding, including state and federal medical assistance program funding for such services, shall be transferred to the pilot project counties.\**

**Sec. 53. EFFECTIVE DATES.** The following provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. Section 3, subsection 2, relating to nonreversion of moneys allocated for electronic benefits transfer development.

2. Section 14, subsection 2, paragraph "e", relating to requirements of section 232.143, for the 2001-2002 fiscal year.

3. Section 14, subsection 14, paragraph "a", relating to determining allocation of court-ordered services funding.

4. Section 26, subsection 2, relating to nonreversion of moneys appropriated in 2000 Iowa Acts, chapter 1228, section 27.

5. Section 34, relating to nonreversion of moneys appropriated in 2000 Iowa Acts, chapter 1221, section 1, for home health care services, for home health care and habilitative day care for children with special needs, and for respite care provided through home and community-based waiver services, and relating to nonreversion of moneys appropriated in 2000 Iowa Acts, chapter 1221, section 3, for purchase of service contract providers.

6. Section 45, relating to nonreversion of moneys appropriated in 2000 Iowa Acts, chapter 1228, section 8, for medical assistance repayment receipts.

7. Section 46, relating to nonreversion of moneys appropriated in 2000 Iowa Acts, chapter 1228, section 9, for the pharmaceutical case management study.

8. Section 51, relating to the equipment purchase moratorium.

*\*9. Section 52, relating to adult mental health, mental retardation, and developmental disabilities services funding decategorization pilot project implementation.\**

*Approved May 31, 2001, with exceptions noted.*

THOMAS J. VILSACK, Governor

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

Dear Mr. Secretary:

I hereby transmit House File 732, an Act relating to appropriations for the Department of Human Services and including other provisions and appropriations involving human services and health care, and providing effective dates.

The human services appropriations bill is a vitally important measure for literally hundreds of thousands of Iowans. For many of our neighbors, family members, and friends, it provides the services they most need to assist families, assure basic health care for children, nursing home care for senior citizens, treatment for those with mental illness, and assistance for those with mental retardation or developmental disabilities.

I am deeply saddened that House File 732 is the best that the Legislature was willing to enact. In many ways, this bill is a cruel hoax on Iowans. The Legislature purports to provide additional resources to help abused children, but the reality is that funding for child protection services is reduced. It allocates an additional 75 social workers to the department, giving the appearance that they were serious about addressing the need to have adequate staffing to protect children. However, the total number of staff allotted to the department to work on child protection and to provide services that help strengthen families has been reduced. They include language that appears to appropriate funds for a central intake center to receive child abuse reports. However, those funds are not available unless the Legislature takes specific action in 2002. The reality is that the total state funding to assist children who are vulnerable to abuse has been reduced, not increased. In addition, funding for health care services for children and people with special needs has also been reduced and is not adequate to meet expected needs.

House File 732 provides general fund appropriations that are \$19.4 million below the revised level that I recommended and \$7.5 million below FY 2001 funding. These cuts will negatively impact the department's ability to carry out its duties in an effective manner. It also adds responsibilities to the department at the same time it cuts funding. Therefore, I am unable to approve House File 732 in its entirety.

House File 732 is, therefore, signed on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 2, subsection 17 in its entirety. A new marriage initiative program is proposed with \$500,000 from the Temporary Assistance to Needy Families Block Grant. Funding currently available to the state for child care programs was reduced to begin this program. The need for child care is vitally important for many Iowans as it provides them the ability to remain employed and support their families. A waiting list currently exists for child care assistance and the demand for those services continues to grow. I am unable to justify beginning a new program when the state has a waiting list for people who need child care assistance. I would also note that under the Accountable Government Act, state programs must set standards of accountability. This language does not indicate that such standards would be required, thus providing no clear means for Iowans to determine that this is a wise use of state resources. However, I am approving Section 37 of this bill that establishes the Iowa Marriage Initiative Grant Fund. This fund will allow any federal funds specifically made available for this purpose to be used for that program.

I am unable to approve the item designated as Section 2, subsection 18, first paragraph. This language requires the department to report on how federal Temporary Assistance to Needy Families complies with the four purposes outlined in federal law. The Legislature is re-

quired to appropriate TANF funds to meet these guidelines. Information is currently available on how it is spent and is available to the public without the need for an additional report.

I am unable to approve the item designated as Section 3, subsection 1, paragraph e, subparagraph (2) in its entirety. This language leads to expectations that a system will be available for payment for child care services and health care services electronically. This appears to be an idea worth considering but the Legislature did not provide resources to implement it.

I am unable to approve the item designated as Section 7, subsection 8 in its entirety. This language proposes that the department continue a case study for outcome based performance standards. This study has already been completed and delivered to the Legislature, thus this language is no longer needed.

I am unable to approve the item designated as Section 7, subsection 16 in its entirety. This language proposes that the drug utilization review commission review the use of non-sedating antihistamines. The drug utilization review commission has already reviewed these drugs and a further review would not be productive. This would require the department to take on additional work at a time when funding has been reduced.

I am unable to approve the item designated as Section 9, subsection 2 in its entirety. This language directs the department to provide a report on actual costs of providing coverage reported by each insurer participating in the HAWK-I program. This would require the department to take on additional work at a time when funding has been reduced.

I am unable to approve the item designated as Section 9, subsection 4 in its entirety. This language directs the department to seek a waiver to permit families eligible for Medicaid to participate in HAWK-I. This same language was included in previous legislation and the proposal was submitted to the federal government and rejected. Until such time as the federal statute changes, it would be pointless to continue to spend staff time with this directive.

I am unable to approve the item designated as Section 10, subsection 1 in its entirety. This subsection would require the department to seek input and recommendations from legislative members prior to entering into or extending a managed care contract for mental health or substance abuse services. The process for securing contracts provides that vendors will be evaluated on a specific set of criteria to assure fairness and eliminate potential conflicts of interest. The process includes a period of securing comments without giving the appearance of conflict of interest. Therefore, this section is not necessary.

I am unable to approve the item designated as Section 13, subsection 1, unnumbered paragraph 3. This item requires the department to submit a plan for relocating males at the Toledo Juvenile Home to other facilities, thus making Toledo a female only institution. This language has been included in the appropriation bill for the past three years and the Legislature has failed to fund the proposal each of those years. My recommendation in a previous year had included funding for this change and the Legislature chose to use that funding for other programs. If the Legislature wants this change in services to take place, it needs to provide the funds to enable it to happen.

I am unable to approve the item designated as Section 13, subsection 1, unnumbered paragraph 4. This directs funding for two security guards and paving a parking lot at the state juvenile home in Toledo. Given the reduction in funding the Legislature enacted in this bill, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the item designated as Section 13, subsection 6 in its entirety. This item requires the department to develop an additional reporting and tracking system for citations at institutions. This information is already available to the public, and in some instances can be accessed on the Department of Inspections and Appeals website.

I am unable to approve the item designated as Section 14, subsection 18 in its entirety. The rules related to social worker qualifications are already in process before the Human Services Council. The remainder of the items enumerated in this section require resources at a time when the department's resources have been severely reduced.

I am unable to approve the item designated as Section 14, subsection 20 in its entirety. This item allocates \$700,000 for day treatment and aftercare services for juvenile females. I am supportive of providing these services to both males and females. The department is already allocating funds to the local level for various programs, including day treatment and aftercare services. The department should continue to work with the local providers to determine the type of services that will best serve these young people.

I am unable to approve the item designated as Section 20, subsection 3, paragraph c, unnumbered paragraph 2 in its entirety. This directs funding for two security guards at the state mental health institute in Independence. Given the reduction in funding the Legislature enacted in this bill, the state will benefit more from utilizing appropriations for services that directly affect Iowa children and families.

I am unable to approve the item designated as Section 20, subsection 7 in its entirety. This item requires the department to develop an additional reporting and tracking system for citations at institutions. This information is already available to the public, and in some instances can be accessed on the Department of Inspections and Appeals website.

I am unable to approve the item designated as Section 21, subsection 8 in its entirety. This item requires the department to develop an additional reporting and tracking system for citations at institutions. This information is already available to the public, and in some instances can be accessed on the Department of Inspections and Appeals website.

I am unable to approve the items designated as Section 24, subsection 1, paragraph b, unnumbered paragraph 2, Section 52 in its entirety, and Section 53, subsection 9 in its entirety. These sections establish a process for a pilot project for decategorization of funding for adult mental health, mental retardation, and developmental disabilities services. While I support the interest of the four pilot counties in creating a better system and believe it may have merit, the department simply does not have the resources to staff this endeavor. It must put its resources where it will benefit all 99 counties.

I am unable to approve the item designated as Section 27, subsection 2 in its entirety. This language reduces the department's appropriation by \$2.5 million to eliminate their regional offices. Yet no reduction in the duties required by law of the department were made. All the duties that were being done must still be done with significantly fewer people to do them. Under this proposal, the duties currently being done by regional office staff must now be done at the local level. This not only sets up a potentially less efficient system, but it will also reduce the amount of time that local workers have to work with families and to protect children. I fully believe that state government as a whole must review the way it is organized to serve Iowans. That is why I have initiated a restructuring process with all state agencies. The language in this bill, however, does not allow for a restructuring that will promote the best results for Iowans.

I am unable to approve the items designated as Section 28, subsections 2, 3, and 5 in their entirety. This language directs the director to expand the community partnership approach to child protection services, and to work to secure additional federal funding. These activities are currently taking place, making this language unnecessary. The community partnership approach in child protection is being expanded in more than 65 counties in Iowa.

I am unable to approve the items designated as Section 29, subsections 2, 3, and 4 in their entirety. These items require additional duties for the department relating to the requirement for reports to the Legislature and negotiations with the state of Nebraska at a time when dollars and staffing have been severely reduced. Remaining resources should be directed towards providing services to needy Iowans.

I am unable to approve the item designated as Section 31, subsection 1, paragraph b, subparagraph (2) in its entirety. This language requires the department to increase its efforts to collect pharmaceutical manufacturer rebates in order to meet the national average. Based upon industry data, the state is already collecting 99.1% of the national average. Thus, this language appears to be unnecessary and would require the department to take on additional work at a time when funding has been reduced.

I am unable to approve the item designated as Section 31, subsection 1, paragraph b, subparagraph (4) in its entirety. This language attempts to encourage greater use of generic drugs by increasing the co-pay for brand name drugs. Based on claims paid for the previous six months, 54% of the prescriptions paid by the Medicaid program are for generic drugs, 41% are for brand name drugs for which there is no generic equivalent and 4.7% are for brand name drugs where the prescribing authority has directed that they are medically necessary. **Bottom line — this proposal increases fees for Iowa seniors, children, and people with special needs who do not have other choices besides using a brand name drug.**

Another section of this bill proposes the implementation of a maximum allowable cost list for prescription drugs. While I am supportive of this effort, the time frame specified in the statute is very ambitious. I will direct the department to pursue implementation of this proposal as quickly as reasonably possible but would caution legislators about the viability of meeting the implementation date and anticipated savings expected from this proposal for fiscal year 2002.

I am unable to approve the item designated as Section 31, subsection 13 in its entirety. This item requires the department to conduct a study on pay disparity between state and private child welfare workers. This would require the department to take on additional work at a time when funding has been reduced.

I am unable to approve the designated portion of Section 51, subsection 1. This language is not necessary as I have already directed all departments to cease the purchase of non-essential equipment.

For the above reasons, I hereby respectfully approve House File 732 with the exceptions noted above.

Sincerely,  
THOMAS J. VILSACK, *Governor*

**CHAPTER 192**

**SENIOR LIVING TRUST FUND APPROPRIATIONS  
AND NURSING FACILITY REIMBURSEMENT**

*H.F. 740*

**AN ACT** relating to the senior living program including provisions relating to and making appropriations from the senior living trust fund to the department of elder affairs and the department of human services.

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

Section 1. DEPARTMENT OF ELDER AFFAIRS APPROPRIATION. 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, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the development 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:

.....	\$	5,285,426
.....	FTEs	8.00

1. Of the funds appropriated in this section, \$100,000 shall be used by the department to fund recruitment and retention strategies to provide additional training and support for certified nurse aides, employed by nursing facilities, as a means of reducing staff turnover. The department shall contract with an agency or organization whose primary purpose is the improvement of the nurse aide profession through the provision of continuing education, support and empowerment programs, and career opportunities within the field of nurse assisting, with the goal of the further stabilization of the nurse aide workforce and the reduction of nurse aide turnover.

2. Of the funds appropriated in this section, \$255,800 shall be used by the department to fund strategies for dependent adult abuse detection, training, and services.

3. The funds appropriated under this section shall be used in accordance with any regulations, requirements, or guidelines of the health care financing administration of the United States department of health and human services applicable to the senior living program.

Sec. 2. DEPARTMENT OF HUMAN SERVICES APPROPRIATION. 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, 2001, and ending June 30, 2002, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To provide grants to nursing facilities for conversion to assisted living programs or to provide long-term care alternatives and to provide grants to long-term care providers for development of long-term care alternatives:

.....	\$	20,000,000
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2. To supplement the medical assistance appropriation and to provide reimbursement for health care services and rent expenses 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:

.....	\$	1,733,406
.....	FTEs	5.00

3. To implement nursing facility provider reimbursement based upon a case-mix reimbursement methodology:

.....	\$	24,750,000
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a. In order to carry out the purposes of this subsection, the department shall transfer funds appropriated in this section to supplement other appropriations to the department of human services.

b. Notwithstanding section 8.33, moneys appropriated under this subsection that remain unencumbered or unobligated at the close of the fiscal year shall be retained in the senior living trust fund.

### Sec. 3. CONVERSION GRANT PROJECTS — RULES — INTENT.

*\*1. The department of human services shall adopt rules that provide that beginning with applications for conversion grants received on or after July 1, 2001, the department shall give greater weight in the scoring methodology to nursing facility conversion projects that are primarily the renovation and remodeling of the existing nursing facility structure and give less weight to conversion projects that are primarily new construction. The department of human services shall encourage cooperative efforts between the department of inspections and appeals, the state fire marshal and the grant applicant to promote the acceptance of nursing facility conversion projects that are primarily renovation and remodeling of the existing nursing facility structure.\**

2. It is the intent of the general assembly that the department of elder affairs certify all assisted living programs established through nursing facility conversion grants. The department of elder affairs shall consult with conversion grant applicants and recipients to establish and monitor occupancy agreements and assisted living program residents shall be allowed access to third-party payors. The department of elder affairs shall allow grant recipients to revise and modify occupancy agreements to reflect rates that are affordable, as defined in section 249H.3, during the ten-year period of operation following the awarding of the grant by the department of human services.

### Sec. 4. MODIFIED PRICE-BASED CASE-MIX REIMBURSEMENT — NURSING FACILITIES.

1. Beginning July 1, 2001, the department of human services shall reimburse nursing facilities under the medical assistance program in accordance with a phased-in, modified price-based case-mix reimbursement system that includes a case-mix adjusted component and a non-case-mix adjusted component.

2. The modified price-based case-mix reimbursement rate shall be phased in over a three-year period.

a. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, 66.67 percent of a facility's reimbursement rate shall be computed based on the current rate and 33.33 percent shall be computed based on the modified price-based case-mix reimbursement rate. The current rate portion shall be calculated from the cost reports submitted by nursing facilities for the period ending on or before December 31, 2000, plus an inflation factor of 6.21 percent, with a maximum current rate portion of \$94.00. A nursing facility shall not receive a reimbursement rate under this paragraph that is less than the rate received on June 30, 2001, plus an inflation factor of 6.21 percent. For the purposes of this calculation, any excess payment allowance received by the facility shall not be considered part of the reimbursement rate.

b. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, 33.33 percent of a facility's reimbursement rate shall be computed based on the current rate and 66.67 percent shall be computed based on the modified price-based case-mix reimbursement rate. The current rate portion shall be calculated from the current rate for the previous state fiscal year, plus an additional inflation factor based on HCFA/SNF index, with an estimated maximum current rate portion of \$97.47. A nursing facility shall not receive a reimbursement rate under this paragraph that is less than the rate received on June 30, 2002, plus an inflation factor based on the HCFA/SNF index. For the purposes of this calculation, any excess payment allowance received by the facility shall not be considered part of the reimbursement rate.

c. For the fiscal year beginning July 1, 2003, and ending June 30, 2004, and thereafter,

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

100 percent of a facility's reimbursement rate shall be computed based on the modified price-based case-mix reimbursement rate.

3. Modified price-based case-mix reimbursement rate calculation.

a. The department of human services shall determine the statewide median of nursing facility costs as follows:

(1) For the fiscal period beginning July 1, 2001, and ending June 30, 2003, the department shall determine the statewide median of nursing facility costs based upon each facility's actual costs taken from the most recent cost reports, submitted by the nursing facility for the period ending on or before December 31, 2000, subject to certain existing limitations and adjustments. These costs shall be inflated forward to July 1, 2001, by using the midpoint of each cost report and applying the HCFA/SNF index.

(2) Beginning July 1, 2003, and every other fiscal year thereafter beginning on July 1 of the respective state fiscal year, the department shall recalculate the statewide median of nursing facility costs based upon the most recent cost reports submitted by the nursing facility for the period ending on or before December 31 of the previous calendar year and shall inflate these costs forward to the beginning of the state fiscal year by using the midpoint of each cost report and applying the HCFA/SNF index.

*\*b. Beginning July 1, 2003, and thereafter, an occupancy factor of 85 percent shall be applied when calculating the nondirect care cost component of the modified price-based case-mix reimbursement rate. The occupancy factor shall not apply to support care costs.\**

c. The modified price-based case-mix reimbursement rate paid to nursing facilities shall be calculated using the statewide median cost as adjusted to reflect the case mix of the medical assistance residents in the nursing facility.

d. (1) The department of human services shall use the resource utilization groups-III (RUG-III), version 5.12b, 34 group, index maximizer model as the resident classification system to determine a nursing facility's case-mix index, based on data from the minimum data set (MDS) submitted by each facility. Standard version 5.12b, 34 group case-mix indices, developed by HCFA, shall be the basis for calculating the average case-mix index and shall be used to adjust the direct-care component in the determination of the rate ceiling and the modified price-based case-mix reimbursement rate.

(2) The department of human services shall determine and adjust each facility's case-mix index on a quarterly basis. A separate calculation shall be made to determine the average case-mix index for a facilitywide case-mix index, and a case-mix index for the medical assistance residents of the nursing facility using the minimum data set (MDS) report submitted by the facility for the previous quarter, which reflects the residents in the facility on the last day of the previous calendar quarter.

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. 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

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



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. 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.

g. The department shall apply the geographic wage index adjustment annually to the case-mix adjusted component of the modified price-based case-mix reimbursement rate for nursing facilities located in standard metropolitan statistical area counties in Iowa identified by HCFA. This rate shall be calculated using the case-mix adjusted costs of the nursing facility, not to exceed \$8 per patient day. *\*A nursing facility may request an exception to application of the geographic wage index based upon a reasonable demonstration of wages, location, or total cost. A request for an exception shall be submitted to the department of human services within 30 days of receipt of notification by the nursing facility of the new reimbursement rate. The exception request shall include an explanation of the circumstances and supporting data.\**

h. For the purpose of determining the median applicable to Medicare-certified hospital-based skilled nursing facilities, the department shall treat such facilities as a separate peer group.

i. The modified price-based case-mix reimbursement rate for state-operated nursing facilities and special population nursing facilities shall be the average allowable per diem costs, adjusted for inflation, based on the most current financial and statistical report. Special population nursing facilities enrolled on or after June 1, 1993, shall have a rate ceiling equal to the rate ceiling for Medicare-certified hospital-based nursing facilities.

#### 4. ACCOUNTABILITY MEASURES.

a. It is the intent of the general assembly that the department of human services initiate a system to measure a variety of elements to determine a nursing facility's capacity to provide quality of life and appropriate access to medical assistance program beneficiaries in a cost-effective manner. Beginning July 1, 2001, the department shall implement a process to collect data for these measurements and shall develop procedures to increase nursing facility reimbursements based upon a nursing facility's achievement of multiple favorable outcomes as determined by these measurements. Any increased reimbursement shall not exceed 3 percent of the calculation of the modified price-based case-mix reimbursement median. The increased reimbursement shall be included in the calculation of nursing facility modified price-based payment rates beginning July 1, 2002, with the exception of Medicare-certified hospital-based nursing facilities, state-operated nursing facilities, and special population nursing facilities.

b. It is the intent of the general assembly that increases in payments to nursing facilities under the case-mix adjusted component shall be used for the provision of direct care with an emphasis on compensation to direct care workers. The department shall compile and provide a detailed analysis to demonstrate growth of direct care costs, increased acuity, and care needs of residents. The department shall also provide analysis of cost reports submitted by providers and the resulting desk review and field audit adjustments to reclassify and amend provider cost and statistical data. The results of these analyses shall be submitted to the general assembly for evaluation to determine payment levels following the transition funding period.

#### 5. As used in this section:

a. "Case-mix" means a measure of the intensity of care and services used by similar residents in a facility.

b. "Case-mix adjusted costs" means specified costs adjusted for acuity by the case-mix index. Costs subject to adjustment are the salaries and benefits of registered nurses, licensed practical nurses, certified nursing assistants, rehabilitation nurses, and contracted nursing services.

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

c. "Case-mix index" means a numeric score within a specific range that identifies the relative resources used by similar residents and represents the average resource consumption across a population or sample.

d. "Excess payment allowance" means an amount stated as a percentage that is calculated as a percent of the difference between the excess payment ceiling and a nursing facility's costs.

e. "Excess payment ceiling" or "profit ceiling" means an amount stated in terms of per patient day that is calculated as a percent of the median.

f. "Facilitywide average case-mix index" is a simple average, carried to four decimal places, of all resident case-mix indices based on the last day of each calendar quarter.

g. "Geographic wage index" means an annual calculation of the average difference between the hospital-based rural wage index for Iowa and Iowa hospital-based standard metropolitan statistical area wage indices as published by HCFA each July. The wage factor shall be revised when the skilled nursing facility wage indices are released by HCFA.

h. "HCFA" means the health care financing administration of the United States department of health and human services.

i. "HCFA/SNF index" means the HCFA total skilled nursing facility market basket index published by data resources, inc. The HCFA/SNF index listed in the latest available quarterly publication prior to the July 1 rate setting shall be used to determine the inflation factor which shall be applied based upon the midpoint of the cost report period.

j. "Median" means the median cost calculated by using a weighting method based upon total patient days of each nursing facility.

k. "Medicaid" or "medical assistance" means medical assistance as defined in section 249A.2.

l. "Medicaid average case-mix index" means the simple average, carried to four decimal places, of all resident case-mix indices where Medicaid is known to be the per diem payor source on the last day of the calendar quarter.

m. "Medicare" means the federal Medicare program established by Title XVIII of the federal Social Security Act.

n. "Minimum data set" or "MDS" means the federally required resident assessment tool. Information from the MDS is used by the department to determine the facility's case-mix index.

o. "Non-case-mix adjusted costs" means an amount stated in terms of per patient day that is calculated using allowable costs from the cost reports of facilities, divided by the allowable patient days for the cost report period, and beginning July 1, 2003, patient days as modified pursuant to subsection 3, paragraph "b". Non-case-mix adjusted costs include all allowable costs less case-mix adjusted costs.

p. "Nursing facility" means a skilled nursing facility certified under both the federal Medicaid program and the federal Medicare program, and a nursing facility certified under the federal Medicaid program.

q. "Rate ceiling" or "upper payment limit" means a maximum rate amount stated in terms of per patient day that is calculated as a percent of the median.

r. "Special population nursing facility" means a skilled nursing facility the resident population of which is either of the following:

(1) One hundred percent of the residents of the nursing facility is under the age of 22 and require the skilled level of care.

(2) Seventy percent of the residents served requires the skilled level of care for neurological disorders.

6. The department of human services may adopt rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this section. The rules shall become effective immediately upon filing, unless the effective date is delayed by the administrative rules review committee, notwithstanding section 17A.4, subsection 5, and section 17A.8, subsection 9, or a later effective date is specified in the rules. Any rules adopted in

accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. 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. 5. NURSING FACILITY CONVERSION GRANTS. The nursing facility conversion grants awarded on or after July 1, 2001, may be used to convert all or a portion of the licensed nursing facility to a certified assisted-living program. The conversion program shall provide a service delivery package that is affordable for those individuals eligible for services under the medical assistance home and community-based services waiver program applicable to a minimum of 40 percent of the units. The reimbursement rates for the costs paid under the medical assistance program apply only to those clients participating in the medical assistance program. The department of human services shall adjust the criteria for eligibility for conversion grants to allow a licensed nursing facility that has been an approved provider under the medical assistance program for a two-year period to apply for a conversion grant beginning July 1, 2001.

\*Sec. 6. Section 249H.3, subsection 1, Code 2001, is amended to read as follows:

1. ~~"Affordable" means rates for payment of room, board, amenities, and medical and health services which do not exceed the rates established for providers of medical and health services under the medical assistance program with eligibility for an individual equal to the eligibility for medical assistance pursuant to section 249A.3 may be purchased, in conjunction with third-party payors, by seniors with low and moderate incomes in the market area of the providers of such services. In relation to services provided by a provider of services under a home and community-based waiver, "affordable" means that the total monthly cost of the home and community-based waiver services provided does not exceed the cost for that level of care as established by rule by the department of human services, pursuant to chapter 17A, in consultation with the department of elder affairs.\*~~

Sec. 7. Section 249H.6, subsection 1, paragraphs a and b, Code 2001, are amended to read as follows:

a. A licensed nursing facility that has been an approved provider under the medical assistance program for the ~~three-year~~ two-year period prior to application for the grant. The grant awarded may be used to convert all or a portion of the licensed nursing facility to a certified assisted-living program and may be used for capital or one-time expenditures, including but not limited to start-up expenses, training expenses, and operating losses for the first year of operation following conversion associated with the nursing facility conversion.

b. A long-term care provider or a licensed nursing facility that has been an approved provider under the medical assistance program for the ~~three-year~~ two-year period prior to application for the grant or a provider that will meet applicable medical assistance provider requirements as specified in subsection 2, paragraph "c" or "d". The grant awarded may be used for capital or one-time expenditures, including but not limited to start-up expenses, training expenses, and operating losses for the first year of operation for long-term care service development.

*Approved June 1, 2001, with exceptions noted.*

THOMAS J. VILSACK, Governor

Dear Mr. Secretary:

I hereby transmit House File 740, an Act relating to the senior living program including provisions relating to and making appropriations from the senior living trust fund to the department of elder affairs and the department of human services.

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

The senior living trust appropriations bill is an important measure for thousands of Iowans. It will allow many elderly Iowans and people with special needs to have access to options for care other than nursing homes. This bill provides funding for converting nursing facilities to assisted living programs and other alternatives for long-term care as well as providing funds for adult day care programs.

I am pleased that the bill also provides funding to develop a dependent adult abuse program. All too often, we ignore the fact that abuse of vulnerable adults does occur. The program funded by this bill will increase Iowans' knowledge of the existence of adult dependent abuse and provide training and support to communities for improved detection of dependent adult abuse.

The bill also provides funding to increase pay for long-term care staff that take care of our elderly and disabled every day and it includes funding to pay for improvements to nursing home facilities that will improve the quality of life for its residents. There is also funding to support recruitment and training for certified nurse aides.

While supportive of many of the provisions in this bill, there are several provisions that will negatively impact the ability to effectively administer the trust and provide services in the most effective manner. Therefore, I am unable to approve House File 740 in its entirety.

House File 740 is, therefore, signed on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 3, subsection 1 in its entirety. The proposed language would require the department to focus nursing facility conversion grant awards on renovation of existing facilities. The focus should be on providing the appropriate services for persons in need in the most cost effective manner, whether that be renovation of existing structures or new construction.

I am unable to approve the item designated as Section 4 , subsection 3, paragraph b in its entirety. The proposed language would require the state to continue to pay for empty nursing home beds at a time when funding for many services has been cut. This is not wise use of taxpayers' money.

I am unable to approve the designated portion of Section 4, subsection 3, paragraph g. This language is flawed, in that it allows a nursing home to receive an exception to the application of the geographic wage index based upon a reasonable demonstration of wages, location, or total cost. The word "or" should be "and". This technical error will be clarified by the department through the rulemaking process.

I am unable to approve the item designated as Section 6 in its entirety. This section changes the definition of the term "affordable". The application of this definition expands the scope of the population served by these funds and would, in effect, use dollars that were intended to benefit Medicaid eligible people to subsidize those not eligible for Medicaid. This does not seem justifiable at a time when resources are limited.

For the above reasons, I hereby respectfully approve House File 740 with the exceptions noted above.

Sincerely,  
THOMAS J. VILSACK, *Governor*

**CHAPTER 193****NULLIFICATION OF ADMINISTRATIVE RULE —  
UNPROTECTED NONGAME STATUS OF REPTILES***S.J.R. 6*

**A JOINT RESOLUTION** nullifying an amendment to an administrative rule of the department of natural resources eliminating the unprotected nongame status of reptiles and providing an effective date.

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

Section 1. The amendment to 571 Iowa administrative code, rule 76.1, subrule 2, as appearing in ARC 0099B, as published in the Iowa administrative bulletin, volume XXIII, number 5, dated September 6, 2000, p. 478, is nullified.

Sec. 2. **EFFECTIVE DATE.** This joint resolution, being deemed of immediate importance, takes effect upon enactment.

Effective March 26, 2001

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**CHAPTER 194****NULLIFICATION OF ADMINISTRATIVE RULE —  
ADMINISTRATION FEE FOR LOCAL OPTION SALES AND SERVICES TAX***H.J.R. 5*

**A JOINT RESOLUTION** to nullify an administrative rule of the department of revenue and finance relating to the collection of a fee to recover direct costs in the administration of a local option sales and services tax and providing an effective date.

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

Section 1. 701 Iowa administrative code, rule 107.16, is nullified.

Sec. 2. **EFFECTIVE DATE.** This joint resolution, being deemed of immediate importance, takes effect upon enactment.

Effective April 2, 2001

**CHAPTER 195****NULLIFICATION OF ADMINISTRATIVE RULE —  
WILD TURKEY HARVEST REPORTS***H.J.R. 11*

**A JOINT RESOLUTION** to nullify administrative rules of the department of natural resources requiring a harvest report of wild turkeys by resident and nonresident hunters, and providing an effective date.

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

**Section 1. NULLIFICATION OF WILD TURKEY HARVEST REPORTS.**

1. 571 Iowa administrative code, rule 98.5, is nullified.
2. 571 Iowa administrative code, rule 98.16, is nullified.

**Sec. 2. EFFECTIVE DATE.** This joint resolution, being deemed of immediate importance, takes effect upon enactment.

Effective April 5, 2001

**CHAPTER 196****SIXTH JUDICIAL DISTRICT DEPARTMENT OF  
CORRECTIONAL SERVICES LEASE-PURCHASE AGREEMENT***S.J.R. 3*

**A JOINT RESOLUTION** authorizing the sixth judicial district department of correctional services to extend or enter into a new lease-purchase agreement and providing an effective date.

WHEREAS, the sixth judicial district department of correctional services entered into a lease-purchase agreement with Merchants National Bank of Cedar Rapids on April 1, 1991, for real property located in Johnson and Linn counties where the current community-based correctional facilities are now located; and

WHEREAS, the lease-purchase agreement was assigned to Firststar Bank of Milwaukee; and

WHEREAS, the sixth judicial district department of correctional services is desirous to exercise an option in the lease-purchase agreement to acquire approximately ten acres of real property located next to the community-based correctional facility in Cedar Rapids, Iowa, or is desirous to enter into a new lease-purchase agreement to refund the current lease-purchase agreement and to acquire such property; and

WHEREAS, the current lease-purchase agreement is for a term commencing on April 25, 1991, and ending on June 1, 2006; and

WHEREAS, if a new lease-purchase agreement is entered into, the term would commence in the year 2001, and end on June 1, 2008; and

WHEREAS, the sixth judicial district department of correctional services requests authorization from the general assembly pursuant to Code section 905.4, subsection 5, for an extension of the lease-purchase agreement with Firststar Bank of Milwaukee; and

WHEREAS, the sixth judicial district department of correctional services requests authorization to enter into a new lease-purchase agreement in lieu of extending the current lease-purchase agreement if the district department so desires; and

WHEREAS, the requested extension of the lease-purchase agreement is for a term commencing on June 1, 2006, and ending on June 1, 2008; and

WHEREAS, current funding is adequate to meet the extension of or entering into a new lease-purchase obligation and no general fund moneys need to be appropriated to extend or enter into a new lease-purchase agreement; NOW THEREFORE,

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

Section 1. AUTHORIZATION BY GENERAL ASSEMBLY. The general assembly pursuant to Code section 905.4, subsection 5, authorizes the sixth judicial district department of correctional services to extend for a period of two years, from June 1, 2006, through June 1, 2008, the lease-purchase agreement entered into with Merchants National Bank of Cedar Rapids on April 1, 1991, and assigned to Firststar Bank of Milwaukee for the acquisition of approximately ten acres of real property located next to the community-based correctional facility in Cedar Rapids, Iowa. The general assembly also authorizes the sixth judicial district department of correctional services, in lieu of extending the current lease-purchase agreement, to enter into a new lease-purchase agreement for a period beginning in the year 2001 and extending through June 1, 2008, for the purpose of refunding the current lease-purchase agreement and financing the acquisition of approximately ten acres of real property located next to the community-based correctional facility in Cedar Rapids, Iowa. The general assembly acknowledges that the sixth judicial district department of correctional services has adequate funding to meet the extension or entering into of a new lease-purchase agreement and that no state general fund appropriations need to be made to extend or enter into a new lease-purchase agreement.

Sec. 2. EFFECTIVE DATE. This joint resolution, being deemed of immediate importance, takes effect upon enactment.

Approved May 7, 2001

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## CHAPTER 197

### WORLD FOOD PRIZE AWARDS CEREMONY

S.J.R. 7

**A JOINT RESOLUTION** authorizing the temporary use and consumption of wine in the State Capitol in conjunction with the awards ceremony of the World Food Prize Foundation.

WHEREAS, the State of Iowa has the honor of being the home of the World Food Prize Foundation which annually presents an international award recognizing outstanding individual achievement in improving the quality, quantity, or availability of food in the world; and

WHEREAS, Iowa's unique State Capitol is an optimal location for this awards ceremony of the World Food Prize Foundation and was the location of the ceremony in October 2000; and

WHEREAS, wine is customarily served as an accompaniment to the food and entertainment provided at this type of awards ceremony and wine was served at this ceremony in October 2000; and

WHEREAS, under 401 IAC 1.6(6), which prohibits the consumption of alcoholic beverages on the capitol complex, it is not possible to serve wine at this type of awards ceremony in the State Capitol; NOW THEREFORE,

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

Section 1. Notwithstanding 401 IAC 1.6(6) and any contrary provisions of chapter 123, prohibiting the use and consumption of alcoholic beverages in public places, wine may be

used and consumed within the State Capitol at an awards ceremony, to be held on or around October 18, 2001, hosted and organized in whole or in part by the World Food Prize Foundation if the person providing the food and wine at the awards ceremony possesses an appropriate valid liquor control license. For the purpose of this section and section 123.95, the State Capitol is a private place.

Approved May 18, 2001

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## CHAPTER 198

### FOOD SAFETY AND GENETIC ENGINEERING EDUCATIONAL PROGRAM

*S.J.R. 8*

**A JOINT RESOLUTION** authorizing the temporary use and consumption of wine in the State Capitol at a dinner held in conjunction with a national educational program relating to food safety and genetic engineering organized by the State Legislative Leaders Foundation and Iowa State University.

WHEREAS, the State of Iowa has the honor of hosting a meeting of the State Legislative Leaders Foundation, a nonpartisan national organization representing the nation's legislative leaders; and

WHEREAS, the meeting will bring together legislative leaders, including senate presidents, house speakers, senate presidents pro tempore, house speakers pro tempore, majority leaders, and minority leaders from throughout the United States, and many of the world's foremost experts on food safety and genetic engineering, including representatives from the United States Food and Drug Administration, the United Nations Food and Agricultural Organization, and leading corporations engaged in genetic engineering and food products; and

WHEREAS, Iowa's unique State Capitol is an optimal location for a dinner held in conjunction with this prestigious meeting; and

WHEREAS, wine is customarily served as an accompaniment to the food and entertainment provided at this type of dinner; and

WHEREAS, under 401 IAC 1.6(6), which prohibits the consumption of alcoholic beverages on the capitol complex, it is not possible to serve wine in the State Capitol at this type of dinner; NOW THEREFORE,

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

Section 1. Notwithstanding 401 IAC 1.6(6) and any contrary provisions of chapter 123, prohibiting the use and consumption of alcoholic beverages in public places, wine may be used and consumed within the State Capitol at a dinner, to be held on or around Friday, June 22, 2001, hosted and organized in whole or in part by the State Legislative Leaders Foundation and Iowa State University, if the person providing the food and wine at the dinner possesses an appropriate valid liquor control license. For the purpose of this section and section 123.95, the State Capitol is a private place.

Approved May 18, 2001



**ANALYSIS OF TABLES****2001 REGULAR SESSION**

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AND JOINT RESOLUTIONS TO  
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<sup>2</sup> Iowa Code chapter 523A, Code 2001, repealed by 2001 Iowa Acts, chapter 118, §57; new Iowa Code chapter enacted at chapter 523A placement



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<sup>3</sup> Not enacted

<sup>4</sup> Not enacted

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