

State of Iowa

2002

ACTS
(Session Laws)

Enacted at the

2002 REGULAR SESSION

and the

**2002 SECOND
EXTRAORDINARY SESSION**

of the

Seventy-Ninth General Assembly

of the

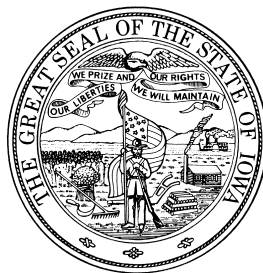
State of Iowa

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

REGULAR SESSION BEGUN ON THE FOURTEENTH DAY OF JANUARY
AND ENDED ON THE TWELFTH DAY OF APRIL, A.D. 2002

FIRST EXTRAORDINARY SESSION HELD ON THE TWENTY-SECOND DAY OF APRIL, A.D. 2002

SECOND EXTRAORDINARY SESSION HELD ON THE TWENTY-EIGHTH DAY OF MAY, A.D. 2002



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

PREFACE

CERTIFICATION

We, Dennis C. Prouty, Acting 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 in this volume have been prepared from the original enrolled Acts on file in the office of the Secretary of State; are correct copies of those Acts; are published under the authority of the statutes of this state; and constitute the Acts of the 2002 Regular Session and the 2002 Second 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 2003 IOWA CODE IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 2003 Iowa Code.

Typographic style. The Acts 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 2002 Regular Session took effect on July 1, 2002, unless otherwise provided. There were no enrolled Acts enacted at the 2002 First Extraordinary Session. The Acts of the 2002 Second Extraordinary Session took effect on August 26, 2002, 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. There were no enrolled Acts which required the estimate this year.

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 Legislative Service Bureau, State Capitol, Third Floor, Des Moines, Iowa 50319. Telephone (515) 281-3566



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ELECTIVE OFFICERS

Name and Office	County from which originally chosen
GOVERNOR	
THOMAS J. VILSACK	Henry
John Cacciatore, Chief of Staff	Polk
LIEUTENANT GOVERNOR	
SALLY J. PEDERSON	Polk
Dawn Wilson, Senior Advisor to Lieutenant Governor	Polk
Troy Price, Lieutenant Governor's Scheduler	Polk
SECRETARY OF STATE	
CHESTER J. CULVER	Polk
Rob Berntsen, Chief of Staff	Polk
Bob Galbraith, Deputy of Elections and Voter Registration	Polk
Joni Klaasen, 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, Director, Market Development and Administrative Services Division	Polk
Ronald Rowland, Director, Consumer Protection and Regulatory Affairs Division	Polk
William Ehm, Director, Soil Conservation Division	Polk
Jeff Ward, Director, Agricultural Development Authority	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	Restaurateur	44th—Adams, Decatur, Page, Ringgold, Taylor, <i>Union</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX
¹ Bartz, Merlin E. Grafton	Farmer/Laborer	10th—Cerro Gordo, Mitchell, <i>Worth</i>	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Behn, Jerry Boone	Farmer/Agribusiness ...	40th—Boone, Carroll, ... Greene	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Black, Dennis H. Grinnell	Conservationist	29th— <i>Jasper</i> , Mahaska, Marshall, .. Poweshiek	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Boettger, Nancy J. Harlan	Farmer/Former Educator	41st—Audubon, Harrison, Pottawattamie, <i>Shelby</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Bolkcom, Joe Iowa City	.....	23rd— <i>Johnson</i>	78, 79(1st), 79(1st)X, 79(1st)XX
Connolly, Mike Dubuque	School Administrator ..	18th— <i>Dubuque</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Dearden, Dick Des Moines	Retired	35th— <i>Polk</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Deluhery, Patrick J. Davenport	College Teacher	22nd— <i>Scott</i>	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Drake, Richard Muscatine	General Farming	24th—Johnson, Louisa, <i>Muscatine</i> , Scott	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Dvorsky, Robert E. Coralville	Job Developer — 6th ... District, Department of Correctional Services	25th— <i>Johnson</i> , Linn	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX

¹ Resigned February 11, 2002

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Fiegen, Thomas L. Clarence	Bankruptcy Lawyer	20th—Cedar, Clinton, . . . Jones, Scott	79(1st), 79(1st)X, 79(1st)XX
Fink, William (Bill) Carlisle	Teacher	45th—Marion, Warren . .	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Flynn, Tom Epworth	Business Owner	17th—Delaware, Dubuque, Jackson	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Fraise, Gene Fort Madison	Farming	50th—Des Moines, Lee	71(2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Freeman, Mary Lou Alta	. . . . .	5th—Buena Vista, Cherokee, Clay, O'Brien, Plymouth, . . . Pocahontas	75(2nd), 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Gaskill, E. Thurman Corwith	Farmer	8th—Hancock, Humboldt, Kossuth, Winnebago, Wright	77(2nd), 78, 79(1st), 79(1st)X, 79(1st)XX
Greiner, Sandra H. Keota	Farmer	48th—Keokuk, Mahaska, Marion, Wapello, Washington	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Gronstal, Michael E. Council Bluffs	. . . . .	42nd—Pottawattamie . . .	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Hammond, Johnnie Ames	Legislator	31st—Story	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Hansen, Steven D. Sioux City	Adjunct Instructor/ Legislator/Property .. Management	1st—Woodbury	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Harper, Patricia Waterloo	Retired Educator	13th—Black Hawk	72, 72X, 72XX, 73, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Holveck, Jack Des Moines	Attorney	36th—Polk	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Horn, Wally E. Cedar Rapids	Legislator	27th—Linn	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Houser, Hubert M. Carson	Farmer	43rd—Cass, Fremont, . . . Mills, Montgomery, .. Pottawattamie	75, 76, 77, 78, 79(1st)X, 79(1st)XX

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Iverson, Stewart, Jr. Dows	Farmer	9th—Franklin, Hamilton, Hardin, Wright	73(2nd), 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
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, 79(1st), 79(1st)X, 79(1st)XX
² Johnson, JoAnn Adel	.....	39th—Adair, Dallas, Guthrie, Madison	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
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, 79(1st), 79(1st)X, 79(1st)XX
King, Steve	Construction Contractor	6th—Crawford, Ida, Monona, Sac, Woodbury	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Kramer, Mary E. West Des Moines	.....	37th—Polk	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Lamberti, Jeff	Attorney	33rd—Polk	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
³ Lord, David G. Perry	Retired Clothier	39th—Adair, Dallas, Guthrie, Madison	76, 77, 78
Lundby, Mary A. Marion	Legislator	26th—Linn	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Maddox, Gene	Lawyer	38th—Dallas, Polk	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
McCoy, Matt	Vice President — Industry Relations, .. Ruan Transportation	34th—Polk	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
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, 79(1st), 79(1st)X, 79(1st)XX
McKibben, Larry	Lawyer	32nd—Marshall, Story ..	77, 78, 79(1st), 79(1st)X, 79(1st)XX
McKinley, Paul	Businessman	46th—Appanoose, Clarke, Davis, Lucas, Monroe, Van Buren, Wayne	79(1st), 79(1st)X, 79(1st)XX
Miller, David	Attorney	47th—Jefferson, Van Buren, Wapello	78, 79(1st), 79(1st)X, 79(1st)XX
⁴ Ragan, Amanda	Director of Community Kitchen/Director of .. Meals on Wheels	10th—Cerro Gordo, Mitchell, Worth	None

² Resigned January 22, 2002

³ Elected in Special Election February 19, 2002

⁴ Elected in Special Election March 12, 2002

<u>Name and Residence</u>	<u>Occupation</u>	<u>Senatorial District</u>	<u>Former Legislative Service</u>
Redfern, Donald B. Cedar Falls	Attorney	12th— <i>Black Hawk</i>	75(2nd), 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Redwine, John Sioux City	Family Practitioner	2nd— <i>Plymouth</i> , Woodbury	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Rehberg, Kitty Rowley	Farmer	14th— <i>Black Hawk</i> , <i>Buchanan</i> , Delaware, . Fayette	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Rittmer, Sheldon DeWitt	Farmer	19th— <i>Clinton</i> , Scott	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Schuerer, Neal Amana	Restaurateur	30th— <i>Benton</i> , Black Hawk, <i>Iowa</i> , Tama	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Sexton, Mike Rockwell City	Farmer/Env. Compliance Officer	7th— <i>Boone</i> , <i>Calhoun</i> , Hamilton, Webster	78, 79(1st), 79(1st)X, 79(1st)XX
Shearer, Mark Washington	Communications Consultant	49th— <i>Des Moines</i> , Henry, Lee, <i>Washington</i>	73, 74, 78, 79(1st), 79(1st)X, 79(1st)XX
Soukup, Betty A. New Hampton	Legislator/Realtor/ Communications Specialist/College Instructor	15th— <i>Chickasaw</i> , Floyd, Howard, Mitchell, Winneshiek	78, 79(1st), 79(1st)X, 79(1st)XX
Tinsman, Maggie Davenport	Social Worker/Legislator	21st— <i>Scott</i>	73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Veenstra, Ken Orange City	Insurance Agent	3rd— <i>Lyon</i> , O'Brien, Osceola, <i>Sioux</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Zieman, Mark Postville	Farmer/Owner — Cherry Valley Ent., Inc.	16th— <i>Allamakee</i> , Clayton, Fayette, Winneshiek	79(1st), 79(1st)X, 79(1st)XX

REPRESENTATIVES

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Alons, Dwayne Hull	.....	5th— <i>Sioux</i>	78, 79(1st), 79(1st)X, 79(1st)XX
Arnold, Richard Russell	Farmer/Truck Driver ...	91st— <i>Appanoose</i> , <i>Clarke, Lucas, Wayne</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Atteberry, Andra Manchester	Freelance Writer	27th— <i>Black Hawk</i> , <i>Buchanan, Delaware</i>	79(1st), 79(1st)X, 79(1st)XX
Baudler, Clel Greenfield	Retired State Trooper/ .. Farmer	78th— <i>Adair, Guthrie</i> , ... <i>Madison</i>	78, 79(1st), 79(1st)X, 79(1st)XX
Bell, Paul Newton	Lieutenant— <i>Newton</i> ... Police Department	57th— <i>Jasper</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Boal, Carmine Ankeny	Legislator	65th— <i>Polk</i>	78, 79(1st), 79(1st)X, 79(1st)XX
Boddicker, Daniel J. Tipton	Electrical Engineer	39th— <i>Cedar, Clinton</i> , ... <i>Jones</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Boggess, Effie Lee Clarinda	Retired Farmer	87th— <i>Adams, Page</i> , <i>Taylor</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Bradley, Clyde Clinton	Engineer	37th— <i>Clinton, Scott</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Brauns, Barry Muscatine	.....	47th— <i>Johnson, Louisa</i> , <i>Muscatine</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Broers, Roger A. Mason City	Farmer/Teacher	19th— <i>Cerro Gordo</i>	79(1st), 79(1st)X, 79(1st)XX
Brunkhorst, Bob Waverly	Computer Analyst	22nd— <i>Black Hawk</i> , <i>Bremer</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Bukta, Polly Clinton	Retired Educator	38th— <i>Clinton</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Carroll, Danny Grinnell	Director of	58th— <i>Jasper, Mahaska</i> , . <i>Marshall, Poweshiek</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Chiodo, Frank John Des Moines	Small Business Manager	67th— <i>Polk</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Cphoon, Dennis M. Burlington	Special Education	100th— <i>Des Moines</i>	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Connors, John H. Des Moines	Retired Fire Captain ...	69th— <i>Polk</i>	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Cormack, Mike Fort Dodge	Substitute Teacher/ Youth Baseball Coach	13th— <i>Webster</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
De Boef, Betty R. New Sharon	Farmer/Small Business Owner	96th—Keokuk, <i>Mahaska</i> , Wapello, Washington	79(1st), 79(1st)X, 79(1st)XX
Dix, Bill Shell Rock	Farmer	21st— <i>Butler</i> , Grundy	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Dolecheck, Cecil Mount Ayr	Farmer	88th—Decatur, <i>Ringgold</i> , Taylor, Union	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Dotzler, William A., Jr. Waterloo	Machinist/Labor Representative	26th— <i>Black Hawk</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Drake, Jack Lewis	Farmer	81st—Audubon, <i>Pottawattamie</i> , Shelby	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Eddie, Russell J. Storm Lake	Retired Farmer/ Legislator	10th— <i>Buena Vista</i> , Clay, Pocahontas	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Eichhorn, George S. Stratford	Attorney	14th—Boone, Calhoun, <i>Hamilton</i> , Webster	79(1st), 79(1st)X, 79(1st)XX
Elgin, Jeffrey C. Cedar Rapids	Business Owner/Investor	51st— <i>Linn</i>	79(1st), 79(1st)X, 79(1st)XX
Fallon, Ed Des Moines	Musician	70th— <i>Polk</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Finch, Barbara A. Ames	Farming	62nd— <i>Story</i>	79(1st), 79(1st)X, 79(1st)XX
Foege, Ro Mount Vernon	Social Worker	50th—Johnson, <i>Linn</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Ford, Wayne W. Des Moines	Executive Director Urban Dreams	71st— <i>Polk</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Frevert, Marcella R. Emmetsburg	Legislator	8th—Clay, Kossuth, <i>Palo Alto</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Garman, Teresa Ames	Retired/Legislator	63rd—Marshall, <i>Story</i>	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Gipp, Chuck Decorah	Farmer	31st—Allamakee, <i>Winneshiek</i>	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Greimann, Jane Ames	Retired Public School Teacher	61st— <i>Story</i>	78(2nd), 79(1st), 79(1st)X, 79(1st)XX
Grundberg, Betty Des Moines	Property Management and Restoration	73rd— <i>Polk</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Hahn, James F. Muscatine	Real Estate/Sales/ Management	48th— <i>Muscatine</i> , Scott	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Hansen, Brad Carter Lake	Health Administrator ..	83rd—Pottawattamie	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Hatch, Jack Des Moines	Housing Developer	68th—Polk	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 79(1st), 79(1st)X, 79(1st)XX
Heaton, Dave Mount Pleasant	Restaurant Owner	97th—Des Moines, Henry, Washington	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Hoffman, Clarence C. Charter Oak	Insurance	12th—Crawford,	78, 79(1st), 79(1st)X, 79(1st)XX
Horbach, Lance James Tama	Insurance/Long Term .. Care	60th—Benton, Black Hawk, Tama	78, 79(1st), 79(1st)X, 79(1st)XX
Hoversten, Gregory B. .. Sioux City	Physician	1st—Woodbury	79(1st), 79(1st)X, 79(1st)XX
Huseman, Daniel Adair Aurelia	Farmer	9th—Buena Vista,	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Huser, Geri D. Altoona	Social Worker	66th—Polk	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Jacobs, Elizabeth (Libby) S. West Des Moines	Assistant Director — ... Corporate Relations	74th—Polk	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Jenkins, G. Willard Waterloo	Engineer	24th—Black Hawk	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Jochum, Pam Dubuque	.....	35th—Dubuque	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Johnson, David Ocheyedan	.....	6th—Lyon, O'Brien, Osceola, Sioux	78, 79(1st), 79(1st)X, 79(1st)XX
Jones, Gerald D. Silver City	Retired	85th—Fremont, Mills, ... Pottawattamie	79(1st)X, 79(1st)XX
Kettering, Steve Lake View	Community Banker	11th—Ida, Sac,	78, 79(1st), 79(1st)X, 79(1st)XX
Klemme, Ralph F. Le Mars	Farmer	4th—Plymouth,	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Kreiman, Keith A. Bloomfield	Attorney	92nd—Appanoose, Davis, Monroe, Van Buren	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Kuhn, Mark A. Charles City	Farmer	29th—Floyd, Howard, ... Mitchell	78, 79(1st), 79(1st)X, 79(1st)XX
Larkin, Rick Fort Madison	Correctional Counselor	99th—Des Moines, Lee	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Larson, Charles W., Jr. Cedar Rapids	Attorney	55th—Linn	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Lensing, Vicki Iowa City	Funeral Home Owner ..	45th— <i>Johnson</i>	79(1st), 79(1st)X, 79(1st)XX
Manternach, Gene Cascade	Farmer	56th— <i>Jones, Linn</i>	79(1st), 79(1st)X, 79(1st)XX
Mascher, Mary Iowa City	Teacher	46th— <i>Johnson</i>	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
May, Dennis Kensett	Farmer	20th— <i>Cerro Gordo, Mitchell, Worth</i>	72, 72X, 72XX, 73, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Mertz, Dolores M. Ottoen	.....	15th— <i>Humboldt, Kossuth</i>	73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Metcalf, Janet S. Urbandale	Legislator	75th— <i>Polk</i>	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Millage, David A. Bettendorf	Attorney at Law	41st— <i>Scott</i>	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Murphy, Patrick J. Dubuque	Self-Employed/Adjunct Faculty NICC	36th— <i>Dubuque</i>	73(2nd), 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Myers, Richard Iowa City	Business Owner	49th— <i>Johnson</i>	75(2nd), 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
O'Brien, Mike Boone	Retired Teacher	79th— <i>Boone, Greene</i> ...	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Osterhaus, Robert J. Maquoketa	Pharmacist	34th— <i>Dubuque, Jackson</i>	76(2nd), 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Petersen, Janet Des Moines	Communications Consultant	72nd— <i>Polk</i>	79(1st), 79(1st)X, 79(1st)XX
Quirk, Brian J. New Hampton	Electrical Contractor ...	30th— <i>Chickasaw, Howard, Winneshiek</i>	79(1st), 79(1st)X, 79(1st)XX
Raecker, J. Scott Urbandale	Executive Director — .. Institute for Character Development	76th— <i>Dallas, Polk</i>	78, 79(1st), 79(1st)X, 79(1st)XX
Rants, Christopher C. ... Sioux City	.....	3rd— <i>Woodbury</i>	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Rayhons, Henry Garner	Farmer	16th— <i>Hancock, Winnebago, Wright</i>	77, 78, 79(1st), 79(1st)X, 79(1st)XX
⁵ Reeder, Jackie Oelwein	.....	28th— <i>Buchanan, Fayette</i>	None
Rekow, Leigh A. Postville	Farmer	32nd— <i>Allamakee, Clayton, Fayette</i>	79(1st), 79(1st)X, 79(1st)XX

⁵ Elected in Special Election January 22, 2002; Representative Steve Falck resigned January 4, 2002

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Reynolds, Rebecca Bonaparte	Legislator/Nurse	94th—Jefferson, Van Buren, Wapello	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Richardson, Steve Indianola	Sales Manager — Skold Door Company	89th—Warren	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Roberts, Rod Carroll	Church Development	80th—Carroll, Greene	79(1st), 79(1st)X, 79(1st)XX
Scherrman, Paul Farley	Business Owner	33rd—Delaware, Dubuque	77, 78, 79(1st), 79(1st)X, 79(1st)XX
Schrader, David Monroe	Self-Employed	90th—Marion, Warren	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Seng, Dr. Joe M. Davenport	Veterinarian	43rd—Scott	79(1st), 79(1st)X, 79(1st)XX
Shey, Patrick Cedar Rapids	Lawyer	52nd—Linn	78(2nd), 79(1st), 79(1st)X, 79(1st)XX
Shoultz, Don Waterloo	Job Training Consultant	25th—Black Hawk	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Siegrist, Brent Council Bluffs	Consultant	84th—Pottawattamie	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Sievers, Bryan J. New Liberty	Farmer	40th—Scott	79(1st), 79(1st)X, 79(1st)XX
Smith, Mark D. Marshalltown	Associate Director, Mental Health Center of Mid-Iowa	64th—Marshall	79(1st), 79(1st)X, 79(1st)XX
Stevens, Greg Milford	Teacher	7th—Dickinson, Emmet, Palo Alto	78, 79(1st), 79(1st)X, 79(1st)XX
Sukup, Steve E. Dougherty	Engineer	18th—Franklin, Hardin	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Taylor, Dick Cedar Rapids	Retired Electrician/ Electrical Project Manager	53rd—Linn	78(2nd), 79(1st), 79(1st)X, 79(1st)XX
Taylor, Todd Cedar Rapids	Labor Representative	54th—Linn	76(2nd), 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Teig, Russell W. Jewell	Farmer	17th—Franklin, Hamilton, Hardin, Wright	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Tremmel, Mark Ottumwa	Attorney	93rd—Wapello	79(1st), 79(1st)X, 79(1st)XX
Tymeson, Jodi S. Winterset	Teacher/Army Guard Officer	77th—Dallas, Madison	79(1st), 79(1st)X, 79(1st)XX

<u>Name and Residence</u>	<u>Occupation</u>	<u>Representative District</u>	<u>Former Legislative Service</u>
Tyrrell, Phil North English	Independent Insurance Agent	59th—Benton, Iowa	68, 69, 69X, 69XX, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Van Engelenhoven, James L. Leighton	Farmer	95th—Mahaska, Marion	78, 79(1st), 79(1st)X, 79(1st)XX
Van Fossen, James Davenport	Economic Development Analyst — MidAmerican Energy	42nd—Scott	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Warnstadt, Steve Sioux City	Adjunct Instructor	2nd—Woodbury	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Weidman, Dick Griswold	Retired State Trooper/ .. Funeral Home Employee	86th—Cass, Montgomery, Pottawattamie	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Wilderdyke, Paul A. Woodbine	Community Relations .. Manager — Iowa Telecom	82nd—Harrison, Pottawattamie	79(1st)XX
Winckler, Cindy Lou Davenport	Curriculum and Instruction Facilitator	44th—Scott	79(1st), 79(1st)X, 79(1st)XX
Wise, Philip Keokuk	Teacher	98th—Henry, Lee	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX
Witt, William G. Cedar Falls	Photojournalist	23rd—Black Hawk	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
Louis A. Lavarato, C.J.	Des Moines	December 31, 2004
Jerry L. Larson	Harlan	December 31, 2004
James H. Carter	Cedar Rapids	December 31, 2008
Linda K. Neuman	Davenport	December 31, 2004
Marsha K. Ternus	Des Moines	December 31, 2002
Mark S. Cady	Fort Dodge	December 31, 2008
Michael J. Streit	Chariton	December 31, 2002

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
Gayle Nelson Vogel	Knoxville	December 31, 2004
Robert E. Mahan	Ames	December 31, 2004
Van D. Zimmer	Vinton	December 31, 2006
John C. Miller	Burlington	December 31, 2006
Daryl L. Hecht	Sioux City	December 31, 2006
Anu Vaitheswaran	Des Moines	December 31, 2006
Larry J. Eisenhauer	Des Moines	December 31, 2002

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103 Federal Courthouse Building
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CONDITION OF STATE TREASURY

June 30, 2001

	Balance July 1, 2000	Total Receipts and Transfers	Total Available	Total Disbursements and Transfers	Balance June 30, 2001
General Fund	\$ 493,664,098	\$ 7,890,752,205	\$ 8,384,416,303	\$ 8,129,259,887	\$ 255,156,416
Special Revenue Fund	602,282,388	2,424,073,362	3,026,355,750	2,397,408,829	628,946,921
Capitol Projects Fund	119,496,275	174,327,416	293,823,691	179,607,483	114,216,208
Debt Service Fund	10,368,956	740,887	11,109,843	1,373,009	9,736,834
Enterprise Fund	57,280,351	376,833,869	434,114,220	408,264,159	25,850,061
Internal Service Fund	35,911,342	281,253,343	317,164,685	284,900,972	32,263,713
Expendable Trust Fund	24,113,537	307,700,015	331,813,552	306,815,968	24,997,584
Nonexpendable Trust Fund . . .	8,173,844	46,928	8,220,772	0	8,220,772
Pension Fund	13,913,597,227	1,728,450,122	15,642,047,349	719,456,518	14,922,590,830
Trust and Agency Fund	124,613,354	3,406,754,326	3,531,367,680	3,384,579,862	146,787,818
Totals	<u>\$15,389,501,372</u>	<u>\$16,590,932,472</u>	<u>\$31,980,433,844</u>	<u>\$15,811,666,688</u>	<u>\$16,168,767,156</u>

Balance July 1, 2000	\$15,389,501,372
Receipts and Transfers	16,590,932,472
Total Available	31,980,433,844
Disbursements and Transfers	15,811,666,688
Balance June 30, 2001	\$16,168,767,156

DEPARTMENT OF REVENUE AND FINANCE

March 11, 2002

ANALYSIS BY CHAPTERS

2002 REGULAR SESSION

For Conversion Tables of Senate and House Files to chapters of the 2002 Acts, Regular Session, see page 712

CH.	FILE	TITLE
1001	SF 2079	Operation of all-terrain vehicles or snowmobiles on a highway
1002	SF 2134	Security and state bank deposit accounts — transfer upon death of owner or depositor
1003	HF 2035	State historic property rehabilitation tax credit
1004	SF 2100	Domestic abuse — intimate relationships
1005	HF 2078	Business growth and development initiatives — seed and venture capital investments — small business income allocation
1006	HF 2271	Investment tax credits — qualifying businesses — community-based seed capital funds
1007	SF 165	Iowa English language reaffirmation Act
1008	SF 2018	Legislators' per diem — 2002 Regular Session
1009	SF 2051	State interagency Missouri river authority
1010	SF 335	Sales and use taxes on livestock — feed, feed supplements, and additives for farm deer and bison
1011	SF 2084	Farm implement, motorcycle, and all-terrain vehicle franchises or dealerships
1012	SF 2207	Conservation easements
1013	HF 2112	Traffic safety regulation — stationary authorized emergency, towing, recovery, and highway maintenance vehicles
1014	HF 2139	Vocational-technical tuition grants — maximum amount
1015	HF 2340	Family investment program limited benefit plans — well-being visits
1016	HF 2345	Violence against women program — administration
1017	HF 2492	Farm aid associations — termination or conversion to nonprofit corporations
1018	HF 2395	Support of dependents — calculation and withholding — medical and educational support
1019	SF 2145	Water pollution control and drinking water facilities financing
1020	HF 2338	Sex offender registration — enrollment, employment, or vocation at higher education institution
1021	HF 2475	Security interests in education loans
1022	SF 2141	Servers of civil process — appointment by sheriff
1023	SF 2212	Secured transactions — landlord liens
1024	HF 2183	School district boards of directors — size and method of election
1025	HF 2487	Medical assistance program — disproportionate share hospital payments for inpatient children's hospital services
1026	SF 374	Therapeutically certified optometrists
1027	SF 437	Snowmobiles and all-terrain vehicles — titling, registration, and use
1028	SF 2210	Interests in agricultural land — qualified enterprises
1029	SF 2260	Area education agencies — reorganization or dissolution
1030	SF 2116	State capitol building and grounds — preservation and enhancement
1031	SF 2133	Real estate brokers
1032	SF 2156	County issuance of driver's licenses, nonoperator identification cards, and persons with disabilities identification devices
1033	SF 2167	State health insurance plans — administration costs
1034	SF 2231	Single contact repository — hospital access to current and prospective employee records

CH.	FILE	TITLE
1035	HF 2082	Registration of watercraft
1036	HF 2138	Student financial aid programs — modification or waiver of requirements in national emergency
1037	HF 2150	Military honor guard services on public property
1038	HF 2151	Confidential public records — school security or emergency preparedness
1039	HF 2153	Criminal sentencing procedures — victim impact statements
1040	HF 2190	Foreign and international adoption procedures
1041	HF 2229	Strategic investment fund — use of fund moneys
1042	HF 2230	Operating while intoxicated — penalties for third or subsequent offenses
1043	HF 2246	Property tax and vehicle registration procedures
1044	HF 2249	Private investigation, private security, and lottery licensing and regulation
1045	HF 2281	Landscape architect licensure
1046	HF 2289	Abatement of nuisances by cities — assessment schedule
1047	HF 2394	Community college faculty
1048	SF 2086	Electric transmission line franchises
1049	SF 2098	Criminal mischief and unauthorized computer access
1050	SF 2201	Nonsubstantive Code corrections
1051	SF 2278	Jails and local or regional confinement facilities — space and needs inventory
1052	SF 2288	Temporary or acting county attorneys
1053	HF 2248	Bill of Rights Day
1054	HF 2310	Statewide underground facilities notification center — vendor contracts
1055	HF 2363	Weapons purchase, possession, and sale — permits — contiguous or adjacent states
1056	HF 2448	Fire protection or emergency medical services — disbursement of township taxes for municipal services
1057	HF 2467	Student financial aid programs — sanctions against licenses of defaulters
1058	HF 2488	Older American community service employment and senior internship programs
1059	HF 2497	Gift certificates — late claims charges
1060	SF 429	Local exchange carrier regulation — rate changes
1061	SF 2155	Life-sustaining procedures — out-of-hospital do-not-resuscitate orders
1062	SF 2160	Dry fire hydrant and rural water supply education and demonstration project
1063	SF 2192	Highways and motor vehicles — miscellaneous provisions
1064	SF 2195	Anatomical gifts
1065	SF 2203	Iowa communications network — access by homeland security or defense facilities
1066	SF 2272	Acquisition or holding of agricultural land — permanent residents
1067	SF 2301	Indigent defense
1068	HF 2109	Games of skill or chance and raffles
1069	HF 2116	Internal Revenue Code references and income tax provisions
1070	HF 2317	Regulation of outdoor advertising devices
1071	HF 2409	Election misconduct
1072	HF 2536	State government advertisements for requests for bids and proposals — internet posting
1073	HF 2538	Campaign finance regulation
1074	HF 2552	Child abuse assessment interviews
1075	SF 2146	Terrorism and intimidation with a dangerous weapon
1076	SF 2277	Open meetings and public records — confidential public airport, municipal corporation, utility, and rural water district information
1077	HF 583	Certification of well contractors and pump services providers

CH.	FILE	TITLE
1078	HF 2135	City planning and zoning commissions — extended zoning jurisdiction — membership
1079	HF 2152	Volunteer emergency services provider death benefits
1080	HF 2201	DNA profiling of criminal defendants
1081	HF 2399	Case permanency plans — foster children aged sixteen or older
1082	HF 2418	State building code — minimum energy standards
1083	HF 2454	Character education programs
1084	HF 2482	Board of educational examiners — licensee disciplinary investigations and proceedings
1085	HF 2506	Sex offenders — issuance of no-contact order upon defendant's release from confinement
1086	HF 2539	Trusts and estates — medical assistance benefits — interest disclaimers — total return unitrusts
1087	HF 518	Small claims jurisdiction
1088	HF 2009	City and county assessors — candidacy for elective public office
1089	HF 2291	City real estate — attachment of judgment liens
1090	HF 2344	Unemployment benefits contested case hearing records — retention
1091	HF 2417	Groundwater and soil contaminant standards — land recycling and remediation
1092	HF 2507	Possession and distribution of anthrax
1093	HF 2530	Pseudorabies control
1094	HF 2546	Assault — intent requirements
1095	SF 2309	Regulation of beef and pork processors
1096	HF 681	Deposit of public funds — uninsured funds — required collateral
1097	HF 2341	Electric transmission lines — extensions of franchises
1098	HF 2453	Procedures and records pertaining to deaths — medical examiners
1099	HF 2495	Sexual abuse — issuance of no-contact order upon defendant's arrest
1100	HF 2510	Movement of dairy cattle from livestock markets
1101	HF 2514	Eradication of animals with contagious diseases — owner indemnification
1102	HF 2518	Child foster care and adoption
1103	SF 144	Highway construction and repair — topsoil preservation
1104	SF 466	Child care and child care providers — obtaining public funding by fraudulent means
1105	SF 2273	Juneteenth National Freedom Day
1106	HF 2446	Proposed uniform computer information transactions Act — effect — intent
1107	HF 2531	Iowa trust code revisions
1108	HF 2547	Public health regulation — miscellaneous provisions
1109	HF 2587	Energy and environmental research and development — Iowa energy center — alternative energy revolving loan program
1110	SF 415	District associate judge jurisdiction
1111	SF 2279	Insurance and securities regulation — miscellaneous provisions
1112	HF 2193	Transportation services and aircraft regulation
1113	HF 2365	Documents and records filed with county recorder — snowmobile and all-terrain vehicle titles — registration of vessels
1114	HF 2404	School finance — weighting for limited English proficient students
1115	HF 2571	Iowa cultural trust
1116	SF 2034	Limitations on prosecutions of criminal actions — persons absent from state
1117	SF 2124	Public defense, emergency management, and Iowa technology center
1118	SF 2228	School finance — use of physical plant and equipment levy moneys
1119	SF 2275	Substantive Code corrections
1120	HF 2416	Mental health and developmental disability services

CH.	FILE	TITLE
1121	HF 2554	Tire and waste tire initiatives — management, regulation, and use of funds
1122	HF 2585	Sales and use taxes — legislative service bureau sales and on-line computer service access charges
1123	HF 2592	Start-up businesses — taxable income deferment
1124	SF 348	Charter schools
1125	SF 2280	Rehabilitative treatment services provider regulation
1126	SF 2320	Court fees — miscellaneous changes
1127	SF 2118	Human cloning prohibition
1128	SF 2258	Board of educational examiners — determinations of licensee qualification
1129	SF 2259	Education regulation and funding — miscellaneous provisions
1130	SF 2268	Regulation, protection, and disposition of animals
1131	SF 2323	Registered nurse recruitment
1132	HF 582	Division, annexation, and development of land
1133	HF 2447	Watercraft regulation — operation and safety
1134	HF 2472	Elections and voter registration
1135	HF 2532	Public retirement systems
1136	HF 2565	Residential real estate installment contracts — disclosure statements
1137	SF 2293	Animal feeding operations and environmental regulation
1138	SF 503	Open feedlots
1139	SF 2286	Sexually violent predators — civil commitment
1140	HF 2515	Education — administration, funding, programming, and services
1141	HF 2591	Resident hunting license fee — pheasant and quail restoration
1142	SF 2205	Regulation of child care and child care providers
1143	SF 2316	Sale of Iowa state university of science and technology dairy research farm — use of proceeds
1144	HF 2191	Notarial acts by judicial officers
1145	HF 2378	Enterprise zones
1146	HF 2430	Administration of mental health and developmental disabilities services
1147	HF 2616	Protection of wild animals
1148	HF 2617	Regulation of milk and milk products
1149	HF 2620	Farmers markets
1150	SF 2305	Tax administration and related matters
1151	HF 2622	Tax administration — additional related matters
1152	HF 2549	Primary and secondary education — employee standards, career development, assessment, and remuneration
1153	HF 2584	Property taxation — vineyard real estate and buildings
1154	HF 2509	Business corporations — miscellaneous provisions — other entities
1155	SF 2168	University of Iowa hospitals and clinics facilities — issuance of bonds
1156	HF 2586	Venture capital fund investment tax credits
1157	SF 2197	Sex offenders — residency restrictions — child care facilities and elementary or secondary schools
1158	SF 2318	Taxation of insurance premiums, assessments, and fees and health service corporation subscriber contract payments
1159	SF 2328	School finance — allowable growth
1160	SF 2057	Dr. Norman E. Borlaug World Food Prize Day
1161	SF 2321	Sales and use taxes — miscellaneous provisions
1162	SF 2325	State agency regulatory functions — miscellaneous reorganizations, transfers, and revisions
1163	SF 2317	Tobacco settlement agreement — miscellaneous provisions — litigation costs
1164	HF 2192	Interstate prescription drug purchasing cooperative
1165	HF 2245	Medical assistance — appropriations and related provisions

CH.	FILE	TITLE
1166	SF 2304	Miscellaneous appropriations, reductions, transfers, and other provisions
1167	SF 2315	School finance — allowable growth, area education agency payments, and state foundation aid
1168	SF 2140	Appropriations — energy conservation programs funding
1169	HF 2075	Economic emergency funds — transfer to tobacco settlement and senior living trust funds
1170	HF 2582	Federal block grant appropriations
1171	SF 2326	Appropriations — miscellaneous provisions, reductions, transfers, and other matters
1172	HF 2613	Senior living and hospital trust funds appropriations
1173	HF 2614	Tobacco settlement, infrastructure, and environment first funds — appropriations and miscellaneous related changes
1174	HF 2615	Healthy Iowans tobacco trust and tobacco settlement trust fund — appropriations
1175	HF 2623	Compensation for public employees and additional provisions

2002 FIRST EXTRAORDINARY SESSION

No Acts were approved by the 2002 First Extraordinary Session

2002 SECOND EXTRAORDINARY SESSION

For Conversion Table of House Files to chapters of the 2002 Acts, Second Extraordinary Session, see page 1126

CH.	FILE	TITLE
1001	HF 2625	Miscellaneous appropriations, reductions, transfers, and other provisions — fiscal year 2001-2002
1002	HF 2626	Appropriations — transportation
1003	HF 2627	Miscellaneous appropriations, reductions, transfers, and other provisions — 2002-2003 and prior fiscal years

2002 Regular Session

of the

Seventy-Ninth General Assembly

of the

State of Iowa

CHAPTER 1001

OPERATION OF ALL-TERRAIN VEHICLES OR SNOWMOBILES ON A HIGHWAY

S.F. 2079

AN ACT eliminating the requirement that a bicycle safety flag be used while operating an all-terrain vehicle or snowmobile on a highway.

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

Section 1. Section 321.234A, Code Supplement 2001, is amended by striking the section and inserting in lieu thereof the following:

321.234A ALL-TERRAIN VEHICLES — HIGHWAY USE.

1. All-terrain vehicles shall be operated on a highway only between sunrise and sunset and only when the operation on the highway is incidental to the vehicle's use for agricultural purposes. A person operating an all-terrain vehicle on a highway shall have a valid driver's license and the vehicle shall be operated at speeds of thirty-five miles per hour or less.

2. A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 3, paragraph "f".

Sec. 2. Section 321G.13, subsection 9, Code Supplement 2001, is amended by striking the subsection.

Sec. 3. Section 805.8B, subsection 2, paragraph b, Code Supplement 2001, is amended to read as follows:

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~~ subsection 4, the scheduled fine is twenty dollars.

Approved February 21, 2002

CHAPTER 1002**SECURITY AND STATE BANK DEPOSIT ACCOUNTS —
TRANSFER UPON DEATH OF OWNER OR DEPOSITOR***S.F. 2134*

AN ACT relating to the transfer of certain deposit and investment accounts upon the death of the decedent.

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

Section 1. Section 524.805, subsection 8, Code 2001, is amended to read as follows:

8. A state bank may receive deposits from one or more persons with the provision that upon the death of the depositors the deposit account shall be the property of the person or persons designated by the deceased depositors as shown on the deposit account records of the state bank. ~~The account is subject to the debts of the deceased depositors and the payment of Iowa inheritance tax provided, that upon the expiration of six months after the date of death of the deceased depositors, the receipt or acquittance of the persons designated is a valid and sufficient release and discharge of the state bank for the delivery of any part or all of the account. After payment by the state bank, the proceeds shall remain subject to the debts of the decedent and the payment of Iowa inheritance tax, if any. A state bank paying the person or persons designated shall not be liable as a result of that action for any debts of the decedent or for any estate, inheritance, or succession taxes which may be due this state.~~

Sec. 2. Section 633.801, subsection 7, Code 2001, is amended to read as follows:

7. "Security account" means either any of the following:

a. Any of the following:

- (1) A reinvestment account associated with a security.
- (2) A securities account with a broker.
- (3) A cash balance in a brokerage account.
- (4) Cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death.

b. A cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

c. An investment management or custody account with a bank, trust company, or a trust division of a bank with trust powers, including the securities in the account, cash balance in the account, cash, cash equivalents, interest, earnings, and dividends earned or declared on a security in the account whether or not credited to the account before the owner's death. For purposes of this paragraph, "bank" means an entity as defined in section 12C.1.

Approved February 21, 2002

CHAPTER 1003

STATE HISTORIC PROPERTY REHABILITATION TAX CREDIT

H.F. 2035

AN ACT relating to the state historic property rehabilitation tax credit and including effective and retroactive applicability date provisions.

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

Section 1. Section 404A.1, subsection 1, Code 2001, is amended to read as follows:

1. A property rehabilitation tax credit, subject to the availability of the credit, is granted against the income tax imposed under chapter 422, division II, ~~or division III, or V, or chapter 432~~, for the rehabilitation of eligible property located in this state as provided in this chapter. Tax credits in excess of tax liabilities shall be refunded as provided in section 404A.4, subsection 3.

Sec. 2. Section 404A.2, unnumbered paragraph 3, Code 2001, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

For purposes of individual and corporate income taxes and the franchise tax, the increase in the basis of the rehabilitated property that would otherwise result from the qualified rehabilitation costs shall be reduced by the amount of the credit computed under this chapter.

Sec. 3. Section 422.60, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. The taxes imposed under this division shall be reduced by a property rehabilitation tax credit equal to the amount as computed under chapter 404A for rehabilitating eligible property. Any credit in excess of the tax liability shall be refunded as provided in section 404A.4, subsection 3.

b. For purposes of this subsection, "eligible property" means the same as used in section 404A.1.

Sec. 4. NEW SECTION. 432.12A PROPERTY REHABILITATION TAX CREDIT.

1. The tax imposed under this chapter shall be reduced by a property rehabilitation tax credit equal to the amount as computed under chapter 404A for rehabilitating eligible property. Any credit in excess of the tax liability shall be refunded as provided in section 404A.4, subsection 3.

2. For purposes of this section, "eligible property" means the same as used in section 404A.1.

Sec. 5. **EFFECTIVE AND APPLICABILITY DATE.** 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 February 21, 2002

CHAPTER 1004

DOMESTIC ABUSE — INTIMATE RELATIONSHIPS

S.F. 2100

AN ACT relating to protection from domestic abuse and including protections for persons in an intimate relationship.

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

Section 1. Section 236.2, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The assault is between persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year of the assault. In determining whether persons are or have been in an intimate relationship, the court may consider the following nonexclusive list of factors:

- (1) The duration of the relationship.
- (2) The frequency of interaction.
- (3) Whether the relationship has been terminated.
- (4) The nature of the relationship, characterized by either party's expectation of sexual or romantic involvement.

A person may be involved in an intimate relationship with more than one person at a time.

Sec. 2. Section 236.2, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. "Intimate relationship" means a significant romantic involvement that need not include sexual involvement. An intimate relationship does not include casual social relationships or associations in a business or professional capacity.

Sec. 3. Section 236.3, Code Supplement 2001, is amended by adding the following new unnumbered paragraph after subsection 7:

NEW UNNUMBERED PARAGRAPH. A temporary or emergency order shall be based on a showing of a prima facie case of domestic abuse. If the factual basis for the alleged domestic abuse is contested, the court shall issue a protective order based upon a finding of domestic abuse by a preponderance of the evidence.

Sec. 4. Section 708.2A, subsection 1, Code 2001, is amended to read as follows:

1. For the purposes of this chapter, "domestic abuse assault" means an assault, as defined in section 708.1, which is domestic abuse as defined in section 236.2, subsection 2, paragraph "a", "b", "c", or "d".

Sec. 5. Section 708.2B, Code 2001, is amended to read as follows:

708.2B TREATMENT OF DOMESTIC ABUSE OFFENDERS.

As used in this section, "district department" means a judicial district department of correctional services, established pursuant to section 905.2. A person convicted of, or receiving a deferred judgment for, domestic abuse assault as defined in section 708.2A, shall report to the district department in order to participate in a batterers' treatment program for domestic abuse offenders. In addition, a person convicted of, or receiving a deferred judgment for, an assault, as defined in section 708.1, which is domestic abuse, as defined in section 236.2, subsection 2, paragraph "e", may be ordered by the court to participate in a batterers' treatment program. Participation in the batterers' treatment program shall not require a person to be placed on probation, but a person on probation may participate in the program. The district departments may contract for services in completing the duties relating to the batterers' treatment programs. The district departments shall assess the fees for participation in the program, and shall either collect or contract for the collection of the fees to recoup the costs

of treatment, but may waive the fee or collect a lesser amount upon a showing of cause. The fees shall be used by each of the district departments or contract service providers for the establishment, administration, coordination, and provision of direct services of the batterers' treatment programs.

District departments or contract service providers shall receive upon request peace officers' investigative reports regarding persons participating in programs under this section. The receipt of reports under this section shall not waive the confidentiality of the reports under section 22.7.

Approved February 22, 2002

CHAPTER 1005

BUSINESS GROWTH AND DEVELOPMENT INITIATIVES — SEED AND VENTURE CAPITAL INVESTMENTS — SMALL BUSINESS INCOME ALLOCATION

H.F. 2078

AN ACT relating to economic stimulus measures for businesses by creating an Iowa capital investment board, authorizing the organization of an Iowa capital investment corporation and an Iowa fund of funds, and authorizing the issuance of contingent tax credits to investors in the Iowa fund of funds; establishing a small business growth initiative by adjusting the allocation to Iowa of income earned by an S corporation for purposes of the state individual income tax; and including a retroactive applicability date provision.

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

Section 1. NEW SECTION. 15E.221 FINDINGS — PURPOSE.

The general assembly finds the following: Fundamental changes have occurred in national and international financial markets and in the financial markets of this state. A critical shortage of seed and venture capital resources exists in the state, and such shortage is impairing the growth of commerce in the state. A need exists to increase the availability of venture equity capital for emerging, expanding, and restructuring enterprises in Iowa, including, without limitation, enterprises in the life sciences, advanced manufacturing, information technology, and value-added agriculture areas. Such investments will create jobs for Iowans and will help to diversify the state's economic base.

This division is enacted to fulfill the following purposes:

1. To mobilize private investment in a broad variety of venture capital partnerships in diversified industries and locales.
2. To retain the private-sector culture of focusing on rate of return in the investing process.
3. To secure the services of the best managers in the venture capital industry, regardless of location.
4. To facilitate the organization of the Iowa fund of funds in which to seek such private investment and to create interest in such investments by offering state incentives for private persons to make investments in the Iowa fund of funds.
5. To enhance the venture capital culture and infrastructure in the state of Iowa so as to increase venture capital investment within the state and to promote venture capital investing within Iowa.
6. To accomplish these purposes in such a manner as to minimize any appropriations by the state of Iowa.

7. To effectuate specific, measurable results, including all of the following:
 - a. The creation of three new venture capital fund offices in Iowa within three years of the effective date of this Act.
 - b. The investment of resources from the Iowa fund of funds in Iowa businesses within three years of the effective date of this Act.
 - c. A cumulative rate of return on venture investments of the Iowa fund of funds equal to a minimum of one and one-half percentage points above the ten-year treasury bill rate in effect at the end of five years following the effective date of this Act.¹

Sec. 2. NEW SECTION. 15E.222 DEFINITIONS.

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

1. "Board" means the Iowa capital investment board created in section 15E.223.
2. "Certificate" means a contract between the board and a designated investor pursuant to which a tax credit is available and issued to the designated investor.
3. "Designated investor" means a person, other than the Iowa capital investment corporation, who purchases an equity interest in the Iowa fund of funds or a transferee of a certificate or tax credit.
4. "Iowa capital investment corporation" means a private, nonprofit corporation created pursuant to section 15E.224.
5. "Iowa fund of funds" means a private, for-profit limited partnership or limited liability company established by the Iowa capital investment corporation pursuant to section 15E.225 in which a designated investor purchases an equity interest.
6. "Tax credit" means a contingent tax credit issued pursuant to section 15E.226 that is available against tax liabilities imposed by chapter 422, divisions II, III, and V, and by chapter 432 and against the moneys and credits tax imposed by section 533.24.²

Sec. 3. NEW SECTION. 15E.223 IOWA CAPITAL INVESTMENT BOARD.

1. The Iowa capital investment board is created as a state governmental board and the exercise by the board of powers conferred by this division shall be deemed and held to be the performance of essential public purposes. The purpose of the board shall be to mobilize venture equity capital for investment in such a manner that will result in a significant potential to create jobs and to diversify and stabilize the economy of the state.
2. The board shall consist of five voting members and two nonvoting advisory members. The five voting members shall be appointed by the governor and confirmed by the senate pursuant to section 2.32. The five voting members shall be appointed to five-year staggered terms that shall be structured to allow the term of one member to expire each year. One nonvoting member shall be appointed by the majority leader of the senate after consultation with the president of the senate and the minority leader of the senate. One nonvoting member 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 nonvoting members shall be appointed for two-year terms which shall expire upon the convening of a new general assembly. Vacancies shall be filled in the same manner as the appointment of the original members. Members shall be compensated by the board for direct expenses and mileage but members shall not receive a director's fee, per diem, or salary for service on the board. Members shall be selected based upon demonstrated expertise and competence in the supervision of investment managers, in the fiduciary management of investment funds, or in the management and administration of tax credit allocation programs. Members shall not have an interest in any person to whom a tax credit is allocated and issued by the board.
3. The board shall have the power to engage consultants, expend funds, invest funds, contract, bond or insure against loss, or perform any other act necessary to carry out its purpose, provided, however, that the board shall not hire employees.
4. Members of the board shall be indemnified against loss to the broadest extent permissible under chapter 669.

¹ See chapter 1006, §14 herein

² See chapter 1006, §14 herein

5. Meetings of the board shall, except to the extent necessary to protect confidential information with respect to investments in the Iowa fund of funds, be subject to chapter 21.

6. The board shall, in cooperation with the department of revenue and finance, establish criteria and procedures for the allocation and issuance of tax credits to designated investors by means of certificates issued by the board. The criteria shall include the contingencies that must be met for a certificate to be redeemable by a designated investor or transferee in order to receive a tax credit. The contingencies to redemption shall be tied to the scheduled rates of return and scheduled redemptions of equity interests purchased by designated investors in the Iowa fund of funds. The procedures established by the board, in cooperation with the department of revenue and finance, shall relate to the procedures for the issuance of the certificates and the related tax credits, for the transfer of a certificate and related tax credit by a designated investor, and for the redemption of a certificate and related tax credit by a designated investor or transferee. The board shall also establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors and transferees, including, without limitation, criteria and procedures for evaluating the value of investments made by the Iowa fund of funds and the returns from the Iowa fund of funds.

7. Pursuant to section 15E.226, the board shall issue certificates which may be redeemable for tax credits to provide incentives to designated investors to make equity investments in the Iowa fund of funds. The board shall issue the certificates so that not more than twenty million dollars of tax credits may be initially redeemable in any fiscal year. The board shall indicate on the tax certificate the principal amount of the tax credit and the taxable year or years for which the credit may be claimed.

8. The board may charge a placement fee to the Iowa fund of funds with respect to the issuance of a certificate and related tax credit to a designated investor, but the fee shall be charged only to pay for reasonable and necessary costs of the board and shall not exceed one-half of one percent of the equity investment of the designated investor.

9. The board shall, in consultation with the Iowa capital investment corporation, publish an annual report of the activities conducted by the Iowa fund of funds, and present the report to the governor and the general assembly. The annual report shall include a copy of the audit of the Iowa fund of funds and a valuation of the assets of the Iowa fund of funds, review the progress of the investment fund allocation manager in implementing its investment plan, and describe any redemption or transfer of a certificate issued pursuant to this division, provided, however, that the annual report shall not identify any specific designated investor who has redeemed or transferred a certificate. Every five years, the board shall publish a progress report which shall evaluate the progress of the state of Iowa in accomplishing the purposes stated in section 15E.221.

10. The board shall redeem a certificate submitted to the board by a designated investor and shall calculate the amount of the allowable tax credit based upon the investment returns received by the designated investor and its predecessors in interest and the provisions of the certificate. Upon submission of a certificate for redemption, the board shall issue a verification to the department of revenue and finance setting forth the maximum tax credit which may be claimed by the designated investor with respect to the redemption of the certificate.

11. The board shall adopt rules pursuant to chapter 17A necessary to administer the duties of the board.³

Sec. 4. NEW SECTION. 15E.224 IOWA CAPITAL INVESTMENT CORPORATION.

1. An Iowa capital investment corporation may be organized as a private, not-for-profit corporation under chapter 504A. The Iowa capital investment corporation is not a public corporation or instrumentality of the state and shall not enjoy any of the privileges and shall not be required to comply with the requirements of a state agency. Except as otherwise provided in this division, this division does not exempt the corporation from the requirements under state law which apply to other corporations organized under chapter 504A. The purposes of an Iowa capital investment corporation shall be to organize the Iowa fund of funds, to select a venture capital investment fund allocation manager to select venture capital fund investments by the

³ See chapter 1006, §14 herein

Iowa fund of funds, to negotiate the terms of a contract with the venture capital investment fund allocation manager, to execute the contract with the selected venture capital investment fund⁴ manager on behalf of the Iowa fund of funds, to receive investment returns from the Iowa fund of funds, and to reinvest the investment returns in additional venture capital investments designed to result in a significant potential to create jobs and to diversify and stabilize the economy of the state. The corporation shall not exercise governmental functions and shall not have members. The obligations of the corporation are not obligations of this state or any political subdivision of this state within the meaning of any constitutional or statutory debt limitations, but are obligations of the corporation payable solely and only from the corporation's funds. The corporation shall not and cannot pledge the credit or taxing power of this state or any political subdivision of this state or make its debts payable out of any moneys except those of the corporation.

2. To facilitate the organization of an Iowa capital investment corporation, both of the following persons shall serve as incorporators as provided in section 504A.28:

a. The chairperson of the Iowa economic development board or a designee of the chairperson.

b. The director of the department of economic development or a designee of the director.

3. After incorporation, the initial board of directors shall be elected by the members of an appointment committee. The members of the appointment committee shall be appointed by the Iowa economic development board. The initial board of directors shall consist of five members. The persons elected to the initial board of directors by the appointment committee shall include persons who have an expertise in the areas of the selection and supervision of investment managers or in the fiduciary management of investment funds, and other areas of expertise as deemed appropriate by the appointment committee. After the election of the initial board of directors, vacancies in the board of directors of the corporation shall be elected by the remaining directors of the corporation. Members of the board of directors shall be subject to any restrictions on conflicts of interest specified in the organizational documents and shall have no interest in any venture capital investment fund allocation manager selected by the corporation pursuant to the provisions of this division or in any investments made by the Iowa fund of funds.

4. The members of the appointment committee shall exercise due care to assure that persons elected to the initial board of directors have the requisite financial experience necessary in order to carry out the duties of the corporation as established in this division, including in areas related to venture capital investment, investment management, and supervision of investment managers and investment funds.

5. Upon the election of the initial board of directors, the terms of the members of the appointment committee shall expire.

6. The department of economic development shall assist the incorporators and the appointment committee in any manner determined necessary and appropriate by the incorporators and appointment committee in order to administer this section.

7. After incorporation, the Iowa capital investment corporation shall conduct a national solicitation for investment plan proposals from qualified venture capital investment fund allocation managers for the raising and investing of capital by the Iowa fund of funds in accordance with the requirements of this division. Any proposed investment plan shall address the applicant's level of experience, quality of management, investment philosophy and process, probability of success in fund-raising, prior investment fund results, and plan for achieving the purposes of this division. The selected venture capital investment fund allocation manager shall be a person with substantial, successful experience in the design, implementation, and management of seed and venture capital investment programs and in capital formation. The corporation shall only select a venture capital investment fund allocation manager with demonstrated expertise in the management and fund allocation of investments in venture capital funds. The corporation shall select the venture capital investment fund allocation manager deemed best qualified to generate the amount of capital required by this division and to invest the capital of the Iowa fund of funds.

⁴ See chapter 1175, §77 herein

8. The Iowa capital investment corporation may charge a management fee on assets under management in the Iowa fund of funds. The fee shall be in addition to any fee charged to the Iowa fund of funds by the venture capital investment fund allocation manager selected by the corporation, but the fee shall be charged only to pay for reasonable and necessary costs of the Iowa capital investment corporation and shall not exceed one-half of one percent per year of the value of assets under management.

9. Directors of the Iowa capital investment corporation shall be compensated for direct expenses and mileage but shall not receive a director's fee or salary for service as directors.

10. The Iowa capital investment corporation shall have the power to engage consultants, expend funds, invest funds, contract, bond or insure against loss, or perform any other act necessary to carry out its purpose. However, the corporation shall not hire staff as employees except to administer the rural and small business loan guarantee program of the Iowa fund of funds.

11. Upon the dissolution of the Iowa fund of funds, the Iowa capital investment corporation shall be liquidated and dissolved, and any assets owned by the corporation shall be distributed to the state of Iowa and deposited in the general fund.⁵

Sec. 5. NEW SECTION. 15E.225 IOWA FUND OF FUNDS.

1. The Iowa capital investment corporation shall organize the Iowa fund of funds. The Iowa fund of funds shall be authorized to make investments in private seed and venture capital partnerships or entities in a manner which will encourage the availability of a wide variety of venture capital in the state, strengthen the economy of the state, help business in Iowa gain access to sources of capital, help build a significant, permanent source of capital available to serve the needs of Iowa businesses, and accomplish all these benefits in a way that minimizes the use of tax credits.

2. The Iowa capital investment corporation shall organize the Iowa fund of funds in the following manner:

a. The Iowa fund of funds shall be organized as a private, for-profit, limited partnership or limited liability company under Iowa law pursuant to which the Iowa capital investment corporation shall be the general partner or manager. The entity shall be organized so as to provide for equity interests for designated investors which provide for a designated scheduled rate of return and a scheduled redemption which shall occur not less than five years following the issuance of such equity interests. The interest of the Iowa capital investment corporation in the Iowa fund of funds shall be to serve as general partner or manager and to be paid a management fee for the service as provided in section 15E.224, subsection 8, and to receive investment returns of the Iowa fund of funds in excess of those payable to designated investors. Any returns in excess of those payable to designated investors shall be reinvested by the Iowa capital investment corporation by being held in the Iowa fund of funds as a revolving fund for reinvestment in venture capital funds or investments until the termination of the Iowa fund of funds. Any returns received from these reinvestments shall be deposited in the revolving fund.

b. The Iowa fund of funds shall principally make investments in high-quality venture capital funds managed by investment managers who have made a commitment to consider equity investments in businesses located within the state of Iowa and which have committed to maintain a physical presence within the state of Iowa. The investments by the Iowa fund of funds shall be focused principally on partnership interests in private venture capital funds and not in direct investments in individual businesses. The Iowa fund of funds shall invest in venture capital funds with experienced managers or management teams with demonstrated expertise and a successful history in the investment of venture capital funds. The Iowa fund of funds may invest in newly created venture capital funds as long as the managers or management teams of the funds have the experience, expertise, and a successful history in the investment of venture capital funds described in this paragraph.

c. The Iowa fund of funds shall establish and administer a program to provide loan guarantees and other related credit enhancements on loans to rural and small business borrowers within the state of Iowa. The Iowa fund of funds shall invest five percent of its assets in investments for this program.

⁵ See chapter 1006, §14 herein

d. The Iowa fund of funds shall have the power to engage consultants, expend funds, invest funds, contract, bond or insure against loss, or perform any other act necessary to carry out its purpose, including, without limitation, engaging and agreeing to compensate a venture capital investment fund allocation manager. Such compensation shall be in addition to the management fee paid to the Iowa capital investment corporation. However, the Iowa fund of funds shall not hire employees except to administer its rural and small business loan guarantee and credit enhancement program.

e. The Iowa fund of funds may issue debt and borrow such funds as may be needed to accomplish its goals. However, such debt shall not be secured by tax credits issued by the board. The Iowa fund of funds may open and manage bank and short-term investment accounts as deemed necessary by the venture capital investment fund allocation manager.

f. The Iowa fund of funds may expend moneys to secure investment ratings for investments by designated investors in the Iowa fund of funds.

g. Each calendar year, the auditor of state shall conduct an annual audit of the activities of the Iowa fund of funds or shall engage an independent auditor to conduct the audit provided that the independent auditor has no business, contractual, or other connection to the Iowa capital investment corporation or the Iowa fund of funds. The corporation shall reimburse the auditor of state for costs associated with the annual audit. The audit shall be delivered to the Iowa capital investment corporation and the board each year and shall include a valuation of the assets owned by the Iowa fund of funds as of the end of each year.

h. Fifty years after the organization of the Iowa fund of funds, the Iowa capital investment corporation shall cause the Iowa fund of funds to be liquidated with all of its assets distributed to its owners in accordance with the provisions of its organizational documents.

i. Upon the liquidation of the Iowa fund of funds, the Iowa capital investment corporation shall file a report with the general assembly stating how many jobs in this state were created through investments made by the Iowa fund of funds.⁶

Sec. 6. NEW SECTION. 15E.226 CERTIFICATES AND TAX CREDITS.

1. The board may issue certificates and related tax credits to designated investors which, if redeemed for the maximum possible amount, shall not exceed a total aggregate of one hundred million dollars of tax credits. The certificates shall be issued contemporaneously with an investment in the Iowa fund of funds by a designated investor. A certificate issued by the board shall have a specific calendar year maturity date designated by the board of not less than five years after the date of issuance and shall be redeemable on a schedule similar to the scheduled redemption of investments by designated investors. A certificate and the related tax credit shall be transferable by the designated investor. A tax credit shall not be claimed or redeemed except by a designated investor or transferee in accordance with the terms of a certificate from the board. A tax credit shall be claimed for a tax year that begins during the calendar year maturity date stated on the certificate. An individual may claim the credit of 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 from the partnership, limited liability company, S corporation, estate, or trust. Any tax credit in excess of the taxpayer's tax liability for the tax year may be credited to the tax liability for the following seven years, or until depleted, whichever is earlier.

2. The board shall certify the maximum amount of a tax credit which could be issued to a designated investor and identify the specific calendar year the certificate may be redeemed pursuant to this division. The amount of the tax credit shall be limited to an amount equivalent to any difference between the scheduled aggregate return to the designated investor at rates of return authorized by the board and aggregate actual return received by the designated investor and any predecessor in interest of capital and interest on the capital. The rates, whether fixed rates or variable rates, shall be determined pursuant to a formula stipulated in the certificate. The board shall clearly indicate on the certificate the schedule, the amount of equity investment, the calculation formula for determining the scheduled aggregate return on invested

⁶ See chapter 1006, §14 herein

capital, and the calculation formula for determining the amount of the tax credit that may be claimed. Once moneys are invested by a designated investor, the certificate shall be binding on the board and the department of revenue and finance and shall not be modified, terminated, or rescinded.

3. If a designated investor elects to redeem a certificate, the certificate shall be redeemed on June 30 of the calendar year maturity date stated on the certificate. At the time of redemption, the board shall determine the amount of the tax credit that may be claimed by the designated investor based upon the returns received by the designated investor and its predecessors in interest and the provisions of the certificate. The board shall issue a verification to the department of revenue and finance setting forth the maximum tax credit which can be claimed by the designated investor with respect to the redemption of the certificate.

4. The board shall, in conjunction with the department of revenue and finance, develop a system for registration of any certificate and related tax credit issued or transferred pursuant to this section and a system that permits verification that any tax credit claimed upon a tax return is valid and that any transfers of the certificate and related tax credit are made in accordance with the requirements of this division.

5. The board shall issue the tax credits in such a manner that not more than twenty million dollars of tax credits may be initially redeemable in any fiscal year. The board shall indicate on the tax certificate the principal amount of the tax credit and the taxable year or years for which the credit may be claimed.

6. A certificate or tax credit issued or transferred pursuant to this division shall not be considered a security pursuant to chapter 502.

7. In determining the one hundred million dollar maximum limit in subsection 1 and the twenty million dollar limitation in subsection 5, the board shall use the cumulative amount of scheduled aggregate returns on certificates issued by the board to designated investors. However, certificates and related tax credits which have expired shall not be included and certificates and related tax credits which have been redeemed shall be included only to the extent of tax credits actually allowed.⁷

Sec. 7. NEW SECTION. 15E.227 POWERS AND EFFECTIVENESS.

This division shall not be construed as a restriction or limitation upon any power which the board might otherwise have under any other law of this state and the provisions of this division are cumulative to such powers. This division shall be construed to provide a complete, additional, and alternative method for performing the duties authorized and shall be regarded as supplemental and additional powers conferred by any other laws. The level, timing, or degree of success of the Iowa fund of funds or the investment funds in which the Iowa fund of funds invests in, or the extent to which the investment funds are invested in Iowa venture capital projects, or are successful in accomplishing any economic development objectives, shall not compromise, diminish, invalidate, or affect the provisions of any contract entered into by the board or the Iowa fund of funds.⁸

Sec. 8. NEW SECTION. 15E.228 PERMISSIBLE INVESTMENTS.

Investments by designated investors in the Iowa fund of funds shall be deemed permissible investments for state-chartered banks, for credit unions, and for domestic insurance companies under applicable state laws.⁹

Sec. 9. NEW SECTION. 15E.229 ENFORCEMENT.

The attorney general may enforce the provisions of this division and conduct any investigations necessary for such enforcement.¹⁰

Sec. 10. Section 422.8, subsection 2, paragraph b, subparagraph (2), Code 2001, is amended to read as follows:

(2) Any cash or the value of property distributions which are made only to the extent that

⁷ See chapter 1006, §14 herein

⁸ See chapter 1006, §14 herein

⁹ See chapter 1006, §14 herein

¹⁰ See chapter 1006, §14 herein

they are paid from income upon which Iowa income tax has not been paid, as determined under rules of the director, reduced by ~~fifty percent~~ of the amount of any of these distributions that are made to enable the shareholder to pay federal income tax on items of income, loss, and expenses from the corporation.

Sec. 11. **APPLICABILITY PROVISION.** Section 10 of this Act applies retroactively to January 1, 2002, for tax years beginning on or after that date.

Approved February 28, 2002

CHAPTER 1006

INVESTMENT TAX CREDITS — QUALIFYING BUSINESSES — COMMUNITY-BASED SEED CAPITAL FUNDS

H.F. 2271

AN ACT creating a tax credit for investments in qualifying businesses and community-based seed capital funds and including effective and retroactive applicability date provisions.

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

Section 1. NEW SECTION. 15E.41 PURPOSE.

The purpose of this division is to enhance the quality of life for citizens of this state through the increased availability of and accessibility to venture capital, particularly at the seed capital investment stage, which encourages the creation of wealth through high-paid, new jobs that increase the wage base and promote industrial development and innovative products that use new technology. The purpose of this division is also to encourage individuals to invest seed capital in Iowa businesses and in community-based seed capital funds.

Sec. 2. NEW SECTION. 15E.42 DEFINITIONS.

For purposes of this division, unless the context otherwise requires:

1. "Affiliate" means a spouse, child, or sibling of an investor or a corporation, partnership, or trust in which an investor has a controlling equity interest or in which an investor exercises management control.
2. "Board" means the Iowa capital investment board, if created in House File 2078¹ as enacted by the Seventy-ninth General Assembly.
3. "Investor" means an individual making a cash investment in a qualifying business or a person making a cash investment in a community-based seed capital fund. "Investor" does not include a person which is a current or previous owner, member, or shareholder in a qualified² business.
4. "Near equity" means debt that may be converted to equity at the option of the debt holder, and royalty agreements.
5. "Qualifying business" means a business meeting the criteria defined in section 15E.44.

Sec. 3. NEW SECTION. 15E.43 INVESTMENT TAX CREDITS.

1. a. For tax years beginning on or after January 1, 2002, a tax credit shall be allowed against the taxes imposed in chapter 422, division II, for a portion of an individual taxpayer's equity investment, as provided in subsection 2, in a qualified³ business. An individual shall

¹ Chapter 1005 herein

² See chapter 1175, §75 herein

³ See chapter 1175, §76 herein

not claim a tax credit under this paragraph of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual.

b. For tax years beginning on or after January 1, 2002, a tax credit shall be allowed against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24, for a portion of a taxpayer's equity investment, as provided in subsection 2, in a community-based seed capital fund. An individual may claim a tax credit under this paragraph of a partnership, limited liability company, S corporation, estate, or trust electing to have 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 from the partnership, limited liability company, S corporation, estate, or trust.

c. A tax credit shall be allowed only for an investment made in the form of cash to purchase equity in a qualifying business or in a community-based seed capital fund. A taxpayer shall not claim the tax credit prior to the third tax year following the tax year in which the investment is made. Any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit.

2. A tax credit shall equal twenty percent of the taxpayer's equity investment. The maximum amount of a tax credit for an investment by an investor in any one qualifying business shall be fifty thousand dollars. Each year, an investor and all affiliates of the investor shall not claim tax credits under this section for more than five different investments in five different qualifying businesses.

3. An investment shall be deemed to have been made on the same date as the date of acquisition of the equity interest as determined by the Internal Revenue Code. An investment made prior to January 1, 2002, shall not qualify for a tax credit under this division.

4. The aggregate amount of tax credits issued pursuant to this division shall not exceed a total of ten million dollars. The total amount of tax credits issued during the fiscal year beginning July 1, 2002, shall not exceed three million dollars. The total amount of tax credits issued during the fiscal year beginning July 1, 2003, shall not exceed three million dollars. The total amount of tax credits issued during the fiscal year beginning July 1, 2004, shall not exceed four million dollars.

5. A tax credit shall not be redeemed during any tax year beginning prior to January 1, 2005. A tax credit shall not be transferable to any other taxpayer.

6. The board shall develop a system for registration and authorization of tax credits authorized pursuant to this division and shall control distribution of all tax credits distributed to investors pursuant to this division. The board shall develop rules for the qualification and administration of qualifying businesses and community-based seed capital funds. The department of revenue and finance shall adopt these criteria as administrative rules and any other rules pursuant to chapter 17A necessary for the administration of this division.

7. The board may cooperate with the small business development centers in an effort to disseminate information regarding the availability of tax credits for investments in qualifying businesses under this division. The board may also cooperate with the small business development centers to develop a standard seed capital application form that the small business development centers may submit to the board on behalf of clients seeking seed capital. The board shall distribute copies of the application forms to all community-based seed capital funds and potential individual investors.

Sec. 4. NEW SECTION. 15E.44 QUALIFYING BUSINESSES.

1. In order for an equity investment to qualify for a tax credit, the business in which the equity investment is made shall within one hundred twenty days of the date of the first investment notify the board of the names, addresses, taxpayer identification numbers, shares issued, consideration paid for the shares, and the amount of any tax credits, of all shareholders who may initially qualify for the tax credits, and the earliest year in which the tax credits may be re-

deemed. The list of shareholders who may qualify for the tax credits shall be amended as new equity investments are sold or as any information on the list shall change.

2. In order to be a qualifying business, a business must meet all of the following criteria:

a. The principal business operations of the business are located in this state.

b. The business has been in operation for three years or less.

c. The business has an owner who has successfully completed one of the following:

(1) An entrepreneurial venture development curriculum.

(2) Three years of relevant business experience.

(3) A four-year college degree in business management, business administration, or a related field.

(4) Other training or experience as the board may specify by rule or order as sufficient to increase the probability of success of the qualifying business.

d. The business is not a business engaged primarily in retail sales, real estate, or the provision of health care or other professional services.

e. The business shall not have a net worth that exceeds three million dollars.

f. The business shall have secured, within twenty-four months following the first date on which the equity investments qualifying for tax credits have been made, total equity or near equity financing equal to at least two hundred fifty thousand dollars.

3. A qualifying business shall have the burden of proof to demonstrate to the board its qualifications under this section, and shall have the obligation to notify the board in a timely manner of any changes in the qualifications of the business or in the eligibility of investors to redeem the investment tax credits in any tax year.

4. After verifying the eligibility of a qualifying business, the board shall issue a tax credit certificate to be attached to the equity investor's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of credit, the name of the qualifying business, and other information required by the department of revenue and finance. The tax credit certificate, unless rescinded by the board, shall be accepted by the department of revenue and finance as payment for taxes imposed pursuant to chapter 422, division II, subject to any conditions or restrictions placed by the board upon the face of the tax credit certificate and subject to the limitations of section 15E.43.

Sec. 5. NEW SECTION. 15E.45 COMMUNITY-BASED SEED CAPITAL FUNDS.

1. An investment in a community seed capital fund shall qualify for a tax credit under section 15E.43 provided that all requirements of sections 15E.43, 15E.44, and this section are met.

2. In order to be a community-based seed capital fund qualifying under this section, a community-based seed capital fund must meet all of the following criteria:

a. The fund is a limited partnership or limited liability company.

b. The fund has, on or after January 1, 2002, a total of both capital commitments from investors and investments in qualifying businesses of at least five hundred thousand dollars, but not more than three million dollars.

c. The fund has no fewer than ten individual investors who are not affiliates, with no single investor and affiliates of that investor together owning a total of more than twenty-five percent of the ownership interests outstanding in the fund.

3. In order for an investment in a community-based seed capital fund to qualify for a tax credit, the community-based seed capital fund in which the investment is made shall within one hundred twenty days of the date of the first investment notify the board of the names, addresses, taxpayer identification numbers, equity interests issued, consideration paid for the interests, and the amount of any tax credits, of which all limited partners or members who may initially qualify for the tax credits, and the earliest year in which the tax credits may be redeemed. The list of limited partners or members who may qualify for the tax credits shall be amended as new equity interests are sold or as any information on the list shall change.

4. After verifying the eligibility of the community-based seed capital fund, the board shall issue a tax credit certificate to be attached to the taxpayer's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the

tax credit, the name of the community-based seed capital fund, and other information required by the department of revenue and finance. The tax credit certificate, unless rescinded by the board, shall be accepted by the department of revenue and finance or a local taxing district, as applicable, as payment for taxes imposed pursuant to chapter 422, divisions II, III, and V, and chapter 432, and as payment for the moneys and credits tax imposed pursuant to section 533.24, subject to any conditions or restrictions placed by the board on the face of the tax credit certificate and subject to the limitations of section 15E.43.

5. The manager of the community-based seed capital fund shall have the burden of proof to demonstrate to the board the community-based seed capital fund's qualifications under this section, and shall have the obligation to notify the board in a timely manner of any changes in the qualifications of the community-based seed capital fund, in the qualifications of any qualifying business in which the fund has invested, or in the eligibility of limited partners or members to redeem the investment tax credits in any year.

6. In the event that a community-based seed capital fund fails to meet or maintain any requirement set forth in this section, or in the event that the community-based seed capital fund has not invested at least thirty-three percent of its invested capital in no fewer than two separate qualifying businesses, measured at the end of the thirty-sixth month after commencing the fund's investing activities, the board shall rescind any tax credit certificates issued to limited partners or members and shall notify the department of revenue and finance that it has done so, and the tax credit certificates shall be null and void. However, a community-based seed capital fund may apply to the board for a one-year waiver from the requirements of this subsection.

7. An investor in a community-based seed capital fund shall receive a tax credit pursuant to this division only for the investor's investment in the community-based seed capital fund and shall not receive any additional tax credit for the investor's share of investments in a qualifying business made by the community-based seed capital fund. However, an investor in a community-based seed capital fund may receive a tax credit under this division with respect to a separate direct investment made by the investor in the same qualifying business in which the community-based seed capital fund invests.

8. A community-based seed capital fund shall not invest in the Iowa fund of funds, if organized pursuant to 2002 Iowa Acts, House File 2078,⁴ if enacted.

Sec. 6. NEW SECTION. 15E.46 REPORTS.

The board shall publish an annual report of the activities conducted pursuant to this division and shall submit the report to the governor and the general assembly. The report shall include a listing of eligible qualifying businesses and the number of tax credit certificates and the amount of tax credits issued by the board.

Sec. 7. NEW SECTION. 422.11F INVESTMENT TAX CREDITS.

The taxes imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by an investment tax credit authorized pursuant to section 15E.43.

Sec. 8. Section 422.33, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 12. The taxes imposed under this division shall be reduced by an investment tax credit authorized pursuant to section 15E.43.

Sec. 9. Section 422.60, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The taxes imposed under this division shall be reduced by an investment tax credit authorized pursuant to section 15E.43.

Sec. 10. NEW SECTION. 432.12A INVESTMENT TAX CREDITS.

The tax imposed under this chapter shall be reduced by an investment tax credit authorized pursuant to section 15E.43.

⁴ Chapter 1005 herein

Sec. 11. Section 533.24, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The moneys and credits tax imposed under this section shall be reduced by an investment tax credit authorized pursuant to section 15E.43.

Sec. 12. **MONEYS AND CREDITS TAX.** Section 25B.7 shall not apply to the tax credit authorized pursuant to section 15E.43 and allowed against the moneys and credits tax.

Sec. 13. **EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISIONS.** This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2002, for tax years beginning on or after that date.

Sec. 14. 2002 Iowa Acts, House File 2078,⁵ is amended by adding the following new section:
SEC. 12. EFFECTIVE DATE. Sections 1 through 9 of this Act, being deemed of immediate importance, take effect upon the enactment of the Act creating a tax credit for investments in qualifying businesses and community-based seed capital funds as enacted by the Seventy-ninth General Assembly, 2002 Regular Session.

Approved February 28, 2002

CHAPTER 1007

IOWA ENGLISH LANGUAGE REAFFIRMATION ACT

S.F. 165

AN ACT enacting the Iowa English language reaffirmation Act of 2001.

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

Section 1. NEW SECTION. 1.18 IOWA ENGLISH LANGUAGE REAFFIRMATION.

1. The general assembly of the state of Iowa finds and declares the following:
 - a. The state of Iowa is comprised of individuals from different ethnic, cultural, and linguistic backgrounds. The state of Iowa encourages the assimilation of Iowans into Iowa's rich culture.
 - b. Throughout the history of Iowa and of the United States, the common thread binding individuals of differing backgrounds together has been the English language.
 - c. Among the powers reserved to each state is the power to establish the English language as the official language of the state, and otherwise to promote the English language within the state, subject to the prohibitions enumerated in the Constitution of the United States and in laws of the state.
2. In order to encourage every citizen of this state to become more proficient in the English language, thereby facilitating participation in the economic, political, and cultural activities of this state and of the United States, the English language is hereby declared to be the official language of the state of Iowa.
3. Except as otherwise provided for in subsections 4 and 5, the English language shall be the language of government in Iowa. All official documents, regulations, orders, transactions, proceedings, programs, meetings, publications, or actions taken or issued, which are conducted or regulated by, or on behalf of, or representing the state and all of its political subdivisions shall be in the English language.

For the purposes of this section, "official action" means any action taken by the government in Iowa or by an authorized officer or agent of the government in Iowa that does any of the following:

⁵ Chapter 1005 herein

- a. Binds the government.
- b. Is required by law.
- c. Is otherwise subject to scrutiny by either the press or the public.
- 4. This section shall not apply to:
 - a. The teaching of languages.
 - b. Requirements under the federal Individuals with Disabilities Education Act.
 - c. Actions, documents, or policies necessary for trade, tourism, or commerce.
 - d. Actions or documents that protect the public health and safety.
 - e. Actions or documents that facilitate activities pertaining to compiling any census of populations.
 - f. Actions or documents that protect the rights of victims of crimes or criminal defendants.
 - g. Use of proper names, terms of art, or phrases from languages other than English.
 - h. Any language usage required by or necessary to secure the rights guaranteed by the Constitution and laws of the United States of America or the Constitution of the State of Iowa.
 - i. Any oral or written communications, examinations, or publications produced or utilized by a driver's license station, provided public safety is not jeopardized.
- 5. Nothing in this section shall be construed to do any of the following:
 - a. Prohibit an individual member of the general assembly or officer of state government, while performing official business, from communicating through any medium with another person in a language other than English, if that member or officer deems it necessary or desirable to do so.
 - b. Limit the preservation or use of Native American languages, as defined in the federal Native American Languages Act of 1992.
 - c. Disparage any language other than English or discourage any person from learning or using a language other than English.

Sec. 2. NEW SECTION. 4.14 GENERAL RULES OF CONSTRUCTION FOR ENGLISH LANGUAGE LAWS.

It is presumed that English language requirements in the public sector are consistent with the laws of Iowa and any ambiguity in the English language text of the laws of Iowa shall be resolved, in accordance with the ninth and tenth amendments of the Constitution of the United States, not to deny or disparage rights retained by the people, and to reserve powers to the states or to the people.

Sec. 3. CITATION. This Act may be cited as the "Iowa English Language Reaffirmation Act of 2001".

Approved March 1, 2002

CHAPTER 1008

LEGISLATORS' PER DIEM — 2002 REGULAR SESSION

S.F. 2018

AN ACT relating to the number of days of payment for expenses of office for members of the general assembly for the 2002 Regular Session of the Seventy-ninth General Assembly and including effective date and retroactive applicability provisions.

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

Section 1. LEGISLATORS' PER DIEM FOR THE 2002 REGULAR SESSION. Notwith-

standing section 2.10, subsection 1 to the contrary, members of the Seventy-ninth General Assembly shall be limited to the receipt of per diem for expenses of office for the Second Regular Session convening in 2002 for a maximum of ninety calendar days rather than one hundred calendar days.

Sec. 2. EFFECTIVE DATE AND APPLICABILITY PROVISIONS. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to the ninetieth calendar day of the Second Regular Session of the Seventy-ninth General Assembly convening in 2002.

Approved March 1, 2002

CHAPTER 1009

STATE INTERAGENCY MISSOURI RIVER AUTHORITY

S.F. 2051

AN ACT relating to the creation of a state interagency Missouri river authority and specifying its powers and duties.

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

Section 1. NEW SECTION. 28L.1 STATE INTERAGENCY MISSOURI RIVER AUTHORITY CREATED — DUTIES.

1. A state interagency Missouri river authority is created. The members of the authority shall include the governor or the governor's designee, the secretary of agriculture or the secretary's designee, the chairperson of the utilities board or the chairperson's designee, and the directors of the department of natural resources, the state department of transportation, and the department of economic development or the directors' designees. The governor shall serve as chairperson. The director of the department of natural resources shall serve as the coordinator of the authority's activities and shall serve as chairperson in the absence of the governor.

2. The authority shall be responsible for representing the interests of this state with regard to its membership in the Missouri river basin association and to promote the management of the Missouri river in a manner that does not negatively impact landowners along the river or negatively impact the state's economy. The Missouri river basin association is an interstate association of government representatives formed to seek consensus solutions to issues impacting the Missouri river basin.

3. The state interagency Missouri river authority shall not vote to approve or disapprove a substantive proposal or action being considered by the Missouri river basin association without the agreement of the directors of all four state departments and the chairperson of the utilities board who are members of the authority. If a substantive proposal or action considered by the association is not approved or disapproved by all four directors and the chairperson of the utilities board, the state shall abstain from voting on the proposal or action.

4. The state interagency Missouri river authority shall meet regularly with stakeholder groups in this state to receive their recommendations before substantive proposals or actions are voted upon or to receive policy positions to submit to the Missouri river basin association.

Approved March 1, 2002

CHAPTER 1010**SALES AND USE TAXES ON LIVESTOCK — FEED,
FEED SUPPLEMENTS, AND ADDITIVES FOR FARM DEER AND BISON***S.F. 335*

AN ACT relating to species of animals by classifying certain species as livestock, providing exemptions from the sales and use tax for feed used to support the species, providing for refunds, and including an effective date and retroactive applicability provision.

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

Section 1. Section 422.42, Code Supplement 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. “Farm deer” means the same as defined in section 189A.2.

NEW SUBSECTION. 6A. “Livestock” includes but is not limited to an animal classified as an ostrich, rhea, or emu; bison; or farm deer.

Sec. 2. Section 422.45, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 16. The gross receipts from the sale of feed and feed supplements and additives when used for consumption by farm deer or bison.

Sec. 3. **REFUNDS.** Refunds of taxes, interest, or penalties which arise from claims resulting from the enactment of section 422.45, subsection 16, in this Act, for sales occurring between April 1, 1995, and the effective date of this Act, shall be limited to fifty thousand dollars in the aggregate and shall not be allowed unless refund claims are filed prior to October 1, 2002, notwithstanding any other provision of law. If the amount of claims totals more than fifty thousand dollars in the aggregate, the department of revenue and finance shall prorate the fifty thousand dollars among all claimants in relation to the amounts of the claimants’ valid claims.

Sec. 4. **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 March 6, 2002

CHAPTER 1011**FARM IMPLEMENT, MOTORCYCLE, AND
ALL-TERRAIN VEHICLE FRANCHISES OR DEALERSHIPS***S.F. 2084*

AN ACT relating to business relationships between persons involved in the sale of certain vehicles, including suppliers and dealers of all-terrain vehicles.

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

Section 1. Section 322D.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 01. “All-terrain vehicle” means the same as defined in section 321G.1.

Sec. 2. Section 322D.1, subsection 1, Code 2001, is amended to read as follows:

1. "Attachment" means a machine or part of a machine designed to be used on and in conjunction with a farm implement, ~~or a motorcycle, or all-terrain vehicle.~~

Sec. 3. Section 322D.1, subsection 3, paragraphs b and e, Code 2001, are amended to read as follows:

b. The franchisee is granted the right to offer and sell farm implements, ~~or motorcycles, all-terrain vehicles, or related parts or attachments~~ manufactured or distributed by the franchiser.

e. The operation of the franchisee's business is substantially reliant on the franchiser for the continued supply of farm implements, motorcycles, ~~all-terrain vehicles, or related parts, or attachments.~~

Sec. 4. Section 322D.1, subsections 4 through 6, Code 2001, are amended to read as follows:

4. "Franchisee" means a person who receives farm implements, ~~or motorcycles, all-terrain vehicles, or related parts for farm implements or motorcycles or attachments~~ from the franchiser under a franchise and who offers and sells the farm implements, ~~or motorcycles, all-terrain vehicles, or their related parts or attachments~~ to the general public.

5. "Franchiser" means a person who manufactures, wholesales, or distributes farm implements, ~~or motorcycles, all-terrain vehicles, or related parts for farm implements or motorcycles or attachments,~~ and who enters into a franchise.

6. "Motorcycle" ~~has the same meaning~~ means a motor vehicle as defined in section 321.1, subsection 40, paragraph "a" ~~other than an all-terrain vehicle, which has a saddle or seat for the use of a rider and that is designed to travel on not more than two wheels in contact with the ground, but excluding a motorized bicycle as defined in section 321.1.~~

Sec. 5. Section 322D.2, Code 2001, is amended to read as follows:

322D.2 FRANCHISEE'S RIGHTS TO PAYMENT.

1. A franchisee who enters into a written franchise with a franchiser to maintain a stock of ~~farm implements, motorcycles, all-terrain vehicles, or related parts, or attachments, farm implements, or motorcycles~~ has the following rights to payment, at the option of the franchisee, if the franchise is terminated:

a. One hundred percent of the net cost of new unused complete farm implements, ~~or motorcycles, including all-terrain vehicles, or related attachments,~~ which were purchased from the franchiser, ~~and in.~~ In addition, the franchisee shall have a right of payment for transportation charges on the farm implements, ~~or motorcycles, or all-terrain vehicles~~ which have been paid by the franchisee.

b. Eighty-five percent of the net prices of any repair parts, including superseded parts, which were purchased from the franchiser and held by the franchisee on the date of ~~that the termination of the franchise terminated.~~

c. Five percent of the net prices of the parts resold under paragraph "b" for handling, packing, and loading of the parts ~~except that.~~ However, this payment shall not be due to the franchisee if the franchiser elects to perform the handling, packing, and loading.

2. Upon receipt of the payments due under subsection 1, the franchiser is entitled to possession of and title to the farm implements, motorcycles, ~~all-terrain vehicles, or related parts or attachments, or parts.~~

3. The cost of farm implements, motorcycles, ~~all-terrain vehicles, or related attachments~~ and the price of repair parts shall be determined by reference to the franchiser's price list or catalog in effect at the time of the franchise termination.

Sec. 6. Section 322D.3, subsections 7 and 9, Code 2001, are amended to read as follows:

7. A farm implement, ~~or motorcycle, or all-terrain vehicle~~ which is not in new, unused, undamaged, or complete condition.

9. A farm implement, ~~or motorcycle, or all-terrain vehicle~~ which was purchased twenty-four months or more prior to the termination of the franchise.

Sec. 7. NEW SECTION. 322D.9 APPLICATION — ALL-TERRAIN VEHICLES.

1. This chapter applies to a franchise for all-terrain vehicles only if chapter 322F does not apply to a dealership engaged in the retail sale of equipment designed to be principally used for agricultural operations under chapter 322F.

2. The rights under section 322D.2, subsection 1, shall apply to a franchise for all-terrain vehicles as follows:

a. All franchises in effect on the effective date of this Act that have no expiration date and are continuing franchises.

b. Franchises that have been executed or renewed on or after the effective date of this Act, but only for all-terrain vehicles and related parts or attachments purchased on or after the effective date of this Act.

Sec. 8. Section 322F.1, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 01. "All-terrain vehicle" means the same as defined in section 321G.1.

Sec. 9. Section 322F.1, subsections 1 and 3, Code 2001, are amended to read as follows:

1. "Dealer" or "dealership" means a person engaged in the retail sale of equipment, if the person sells equipment designed to be principally used for agricultural ~~or horticultural~~ operations, ~~or raising livestock including but not limited to livestock or crop production or horticulture.~~

3. a. "Equipment" means a any of the following:

(1) A device or part of a device designed to be used for any purpose related to agriculture, including but not limited to livestock or crop production or horticulture, or livestock raising. Equipment "Equipment" includes but is not limited to tractors, trailers, combines, tillage, planting, and cultivating implements, balers, and irrigation implements.

(2) All-terrain vehicles, as defined in section 321G.1.

b. ~~Equipment also includes attachments to~~ For purposes of this chapter, attachments to equipment shall be deemed equipment.

c. ~~Equipment does not include self-propelled machines designed primarily for the transportation of persons or property on a street or highway.~~

Sec. 10. Section 322F.9, Code 2001, is amended to read as follows:
322F.9 APPLICABILITY.

1. A term of a dealership agreement ~~which that~~ is inconsistent with the terms of this chapter is void and unenforceable and does not waive any rights ~~which that~~ are provided to a person ~~provided by this chapter.~~

2. a. ~~This For all dealership agreements other than those for all-terrain vehicles, this chapter applies to all those dealership agreements in effect which that have no expiration date and all other agreements entered into or renewed on or after July 1, 1990. Any such dealership agreement in effect on June 30, 1990, which by its own terms will terminate on a subsequent date, shall be governed by the law as it existed prior to July 1, 1990.~~

b. For all dealership agreements for all-terrain vehicles, this chapter applies to those dealership agreements in effect that have no expiration date and all other such dealership agreements entered into or renewed on or after the effective date of this Act. Any such dealership agreement in effect on the effective date of this Act, which by its own terms will terminate on a subsequent date, shall be governed by the law as it existed prior to the effective date of this Act.

Approved March 14, 2002

CHAPTER 1012
CONSERVATION EASEMENTS
S.F. 2207

AN ACT relating to the acquisition, enforceability, and purpose of conservation easements.

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

Section 1. Section 457A.1, Code 2001, is amended to read as follows:

457A.1 ACQUISITION BY OTHER THAN CONDEMNATION.

The department of natural resources, the historical division of the department of cultural affairs, the state archaeologist appointed by the state board of regents pursuant to section 263B.1, any county conservation board, and any city or agency of a city may acquire by purchase, gift, contract, or other voluntary means, but not by eminent domain, conservation easements in land to preserve scenic beauty, wildlife habitat, riparian lands, ~~wet lands~~ wetlands, or forests, promote outdoor recreation, agriculture, or open space, or otherwise conserve for the benefit of the public the natural beauty, natural and cultural resources, and public recreation facilities of the state.

Sec. 2. Section 457A.2, Code 2001, is amended to read as follows:

457A.2 DEFINITIONS.

1. "Conservation easement" means an easement in, servitude upon, restriction upon the use of, or other interest in land owned by another, created for any of the purposes set forth in section 457A.1. A conservation easement shall be transferable to any other public body authorized to acquire conservation easements. A conservation easement shall be perpetual unless expressly limited to a lesser term, or unless released by the holder, or unless a change of circumstances renders the easement no longer beneficial to the public. ~~No~~ A comparative economic test shall not be used to determine whether a conservation easement is beneficial to the public. A conservation easement shall be enforceable during the term of the easement notwithstanding sections 614.24 through 614.38.

~~2. "Department" means the department of natural resources created under section 455A.2.~~

~~2. "Natural resources" includes, but is not limited to, archaeological and historical resources.~~

Approved March 14, 2002

CHAPTER 1013**TRAFFIC SAFETY REGULATION — STATIONARY AUTHORIZED EMERGENCY,
TOWING, RECOVERY, AND HIGHWAY MAINTENANCE VEHICLES***H.F. 2112*

AN ACT requiring motor vehicle operators to take certain precautions when passing stationary authorized emergency, towing, recovery, and highway maintenance vehicles and providing a penalty.

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

Section 1. NEW SECTION. 321.323A APPROACHING CERTAIN STATIONARY VEHICLES.

1. The operator of a motor vehicle approaching a stationary authorized emergency vehicle that is displaying flashing yellow, amber, white, red, or red and blue lights shall approach the authorized emergency vehicle with due caution and shall proceed in one of the following manners, absent any other direction by a peace officer:

- a. Make a lane change into a lane not adjacent to the authorized emergency vehicle if possible in the existing safety and traffic conditions.
- b. If a lane change under paragraph "a" would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

2. The operator of a motor vehicle approaching a stationary towing or recovery vehicle, or a stationary highway maintenance vehicle, that is displaying flashing yellow, amber, or red lights shall approach the vehicle with due caution and shall proceed in one of the following manners, absent any other direction by a peace officer:

- a. Make a lane change into a lane not adjacent to the towing, recovery, or highway maintenance vehicle if possible in the existing safety and traffic conditions.
- b. If a lane change under paragraph "a" would be impossible, prohibited by law, or unsafe, reduce the speed of the motor vehicle to a reasonable and proper speed for the existing road and traffic conditions, which speed shall be less than the posted speed limit, and be prepared to stop.

Sec. 2. Section 805.8A, subsection 11, paragraph b, Code Supplement 2001, is amended to read as follows:

- b. For a violation under section 321.323A or 321.324, the scheduled fine is fifty dollars.

Approved March 14, 2002

CHAPTER 1014

VOCATIONAL-TECHNICAL TUITION GRANTS — MAXIMUM AMOUNT

H.F. 2139

AN ACT to increase the maximum amount of a vocational-technical tuition grant.

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

Section 1. Section 261.17, subsection 4, paragraph a, Code Supplement 2001, is amended to read as follows:

a. The amount of a vocational-technical tuition grant to a qualified full-time student shall not exceed the lesser of ~~six one thousand two~~ sixty hundred ~~fifty~~ dollars per year or the amount of the student's established financial need.

Approved March 14, 2002

CHAPTER 1015FAMILY INVESTMENT PROGRAM LIMITED BENEFIT PLANS —
WELL-BEING VISITS*H.F. 2340*

AN ACT providing for a well-being visit to be conducted on an optional basis under a family investment program limited benefit plan and providing an effective date.

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

Section 1. Section 239B.9, subsection 5, Code 2001, is amended to read as follows:

5. WELL-BEING VISIT. If a participant has chosen a subsequent limited benefit plan, the department may conduct a well-being visit or contract for a well-being visit to be conducted, provided funding is available for the costs of such visits. A well-being visit shall meet all of the following criteria:

a. ~~a~~ A qualified professional shall attempt to visit with the participant family with a focus upon the children's well-being.

b. The visit shall be ~~performed~~ conducted during or within four weeks of the second month of the start of the subsequent limited benefit plan.

c. The visit shall serve as an extension of the family investment program and the family investment agreement philosophy of supporting families as they move toward self-sufficiency. ~~The department may contract for the visit.~~

Sec. 2. CONTRACT TERMINATION. Effective April 1, 2002, the department of human services shall terminate its contract with the Iowa department of health for conducting well-being visits under section 239B.9, subsection 5, as in effect upon the effective date of this Act.

Sec. 3. EMERGENCY RULES. The department of human services may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act and the rules shall be effective immediately upon filing un-

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

Approved March 14, 2002

CHAPTER 1016

VIOLENCE AGAINST WOMEN PROGRAM — ADMINISTRATION

H.F. 2345

AN ACT authorizing the department of justice to administer the violence against women program.

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

Section 1. Section 13.31, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 6. Administer the violence against women program and grants received pursuant to the federal Violence Against Women Act, Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 42 U.S.C. § 13701.

Approved March 14, 2002

CHAPTER 1017

FARM AID ASSOCIATIONS — TERMINATION OR CONVERSION TO NONPROFIT CORPORATIONS

H.F. 2492

AN ACT relating to farm aid associations, by providing for the future termination of such associations and election procedures to become governed under the Iowa nonprofit corporation Act, and providing an effective date.

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

DIVISION I

Section 1. NEW SECTION. 504A.102 FARM AID ASSOCIATIONS — TERMINATION AND ELECTION TO BE GOVERNED UNDER THE IOWA NONPROFIT CORPORATION ACT.

1. TERMINATION. A corporation incorporated and governed under chapter 176 as an association organized under chapter 176 prior to July 1, 2005, that is not governed as a corpora-

tion under this chapter on or before June 30, 2005, as provided in this section is terminated on July 1, 2005.

2. ELECTION PROCEDURE. A corporation incorporated and governed under chapter 176 as an association organized under chapter 176 prior to July 1, 2005, may elect to be governed as a corporation under this chapter. The association governed under chapter 176 shall be a corporation governed under this chapter by complying with all of the following requirements:

a. The adoption of a resolution or resolutions at a meeting of the board of directors upon receiving the vote of a majority of the directors in office and of the members of the association in the same manner as provided in section 504A.35. The resolution or resolutions shall recite that the association voluntarily elects to be governed as a corporation under this chapter. The resolution must designate the address of the association's initial registered office and the name of the association's registered agent or agents at that office, if any.

b. The adoption of articles of incorporation in compliance with section 504A.29 at a meeting of the board of directors upon receiving the vote of a majority of the directors in office and of the members of the association in the same manner as provided in section 504A.35. The articles of incorporation may be a restatement, substitution, or amendment of articles of incorporation adopted by the association pursuant to section 176.3. The articles of incorporation may be made part of the resolution or resolutions adopted by the association pursuant to paragraph "a" of this subsection.

c. Upon the adoption of a resolution or resolutions and articles of incorporation as provided in paragraphs "a" and "b" of this subsection, the president or vice president and secretary or an assistant secretary shall execute an instrument of verification. The instrument of verification shall certify all of the following:

(1) The association name as provided in the association's articles of incorporation pursuant to section 176.3 and the new corporation's corporate name, if different, as provided in section 504A.6.

(2) An identification of each resolution adopted under paragraph "a" of this subsection, including the date of each resolution's adoption, and a recitation that each resolution and the articles of incorporation for the new corporation are filed with the office of secretary of state.

(3) The address of the new corporation's registered office and the name of the new corporation's registered agent as provided in section 504A.8.

d. All of the following shall be delivered to the office of the secretary of state for filing and recording as provided in section 504A.30:

(1) Each resolution adopted pursuant to paragraph "a" of this subsection.

(2) The new corporation's articles of incorporation adopted pursuant to paragraph "b" of this subsection.

(3) The instrument of verification that is executed pursuant to paragraph "c" of this subsection.

3. CERTIFICATE OF INCORPORATION. Upon filing of the resolution or resolutions, the articles of incorporation, and the instrument of verification as provided in subsection 2, the office of secretary of state shall issue a certificate of incorporation and send the certificate to the corporation or its representative as provided in section 504A.30.

4. LIABILITIES AND RIGHTS PRIOR TO THE ELECTION. An association's election to be governed as a corporation under this chapter does not affect any right accrued or established, or any liability or penalty incurred, under the provisions of chapter 176, prior to filing of the resolution or resolutions, articles of incorporation, and instrument of verification by the association as provided in subsection 2.

5. REPEAL. This section is repealed on July 1, 2005.

DIVISION II CORRESPONDING CHANGES

Sec. 2. Section 159.6, subsection 8, Code 2001, is amended to read as follows:

8. State aid received by certain associations as provided in chapters ~~176~~ 177 through 182, 186, and 352.

Sec. 3. Section 173.3, Code 2001, is amended to read as follows:

173.3 CERTIFICATION OF STATE AID ASSOCIATIONS.

On or before November 15 of each year, the secretary of agriculture shall certify to the secretary of the state fair board the names of the various associations and societies which have qualified for state aid under the provisions of chapters ~~176~~ 177 through 178, 181, 182, 186, and 352, and which are entitled to representation in the convention as provided in section 173.2.

Sec. 4. Section 331.602, subsection 13, Code 2001,⁶ is amended by striking the subsection.

Sec. 5. Section 490.1701, subsection 2, Code 2001, is amended to read as follows:

2. Unless otherwise provided, this chapter does not apply to an entity subject to chapter 174, 176, 497, 498, 499, 499A, 524, 533, or 534 or a corporation organized on the mutual plan under chapter 491, or a telephone company organized as a corporation under chapter 491 qualifying pursuant to an internal revenue service letter ruling under Internal Revenue Code § 501(c)(12) as a nonprofit corporation entitled to distribute profits in a manner similar to a chapter 499 corporation, unless such entity voluntarily elects to adopt the provisions of this chapter and complies with the procedure prescribed by subsection 3 of this section.

Sec. 6. Section 504A.100, subsection 1, Code 2001, is amended to read as follows:

1. Except for this subsection, this chapter shall not apply to or affect corporations subject to the provisions of ~~chapters 176, chapter~~ 497, 498, 499, or 512B. Such corporations shall continue to be governed by all laws of this state heretofore applicable thereto and as the same may hereafter be amended. This chapter shall not be construed as in derogation of or as a limitation on the powers to which such corporations may be entitled.

Sec. 7. Chapter 176 is repealed.

DIVISION III EFFECTIVE DATE

Sec. 8. EFFECTIVE DATE FOR DIVISION II. Division II of this Act, amending sections 159.6, 173.3, 331.602, 490.1701, and 504A.100, and repealing chapter 176, is effective on July 1, 2005.

Approved March 14, 2002

CHAPTER 1018

SUPPORT OF DEPENDENTS — CALCULATION AND WITHHOLDING — MEDICAL AND EDUCATIONAL SUPPORT

H.F. 2395

AN ACT relating to child support including provisions relating to medical support and the calculation of the child support amount relative to receipt of federal social security benefits, providing an effective date, and providing for retroactive applicability.

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

Section 1. Section 252D.18A, subsection 1, Code 2001, is amended to read as follows:

1. The total of all amounts withheld shall not exceed the amounts specified in 15 U.S.C.

⁶ Code Supplement 2001 probably intended

§ 1673(b). For orders or notices issued by the child support recovery unit, the limit for the amount to be withheld shall be specified in the order or notice.

Sec. 2. Section 252D.18A, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. If, after completing the calculation in paragraph “a”, the withholding limit specified under ~~15 U.S.C. § 1673(b) subsection 1~~ has not been attained, the payor shall total the amounts due for arrearages and determine the proportionate share for each obligee. The proportionate share amounts shall be established utilizing the procedures established in paragraph “a” for current support obligations.

Sec. 3. Section 252E.1, Code 2001, is amended to read as follows:

252E.1 DEFINITIONS.

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

1. “Accessible” means any of the following, unless otherwise provided in the support order:

a. The health benefit plan does not have service area limitations or provides an option not subject to service area limitations.

b. The health benefit plan has service area limitations and the dependent lives within thirty miles or thirty minutes of a network primary care provider.

2. “Basic coverage” means coverage provided under a health benefit plan that at a minimum provides coverage for emergency care, inpatient and outpatient hospital care, physician services whether provided within or outside a hospital setting, and laboratory and x-ray services.

3. “Child” means a person for whom child or medical support may be ordered pursuant to chapter 234, 239B, 252A, 252C, 252F, ~~252H, 252K~~, 598, 600B or any other chapter of the Code or pursuant to a comparable statute of a foreign jurisdiction.

4. “Department” means the department of human services, which includes but is not limited to the child support recovery unit, or any comparable support enforcement agency of another state.

5. “Dependent” means a child, or an obligee for whom a court may order coverage by a health benefit plan pursuant to section 252E.3.

6. “Enroll” means to be eligible for and covered by a health benefit plan.

7. “Health benefit plan” means any policy or contract of insurance, indemnity, subscription or membership issued by an insurer, health service corporation, health maintenance organization, or any similar corporation, organization, or a self-insured employee benefit plan, for the purpose of covering medical expenses. These expenses may include, but are not limited to hospital, surgical, major medical insurance, dental, optical, prescription drugs, office visits, or any combination of these or any other comparable health care expenses.

8. “Insurer” means any entity which provides a health benefit plan.

9. “Medical support” means either the provision of a health benefit plan, including a group or employment-related or an individual health benefit plan, or a health benefit plan provided pursuant to chapter 514E, to meet the medical needs of a dependent and the cost of any premium required by a health benefit plan, or the payment to the obligee of a monetary amount in lieu of a health benefit plan, either of which is an obligation separate from any monetary amount of child support ordered to be paid. Medical support is not alimony.

10. “National medical support notice” means a notice as prescribed under 42 U.S.C. § 666(a)(19) or a substantially similar notice, that is issued and forwarded by the department to enforce medical support provisions of a support order.

11. “Obligee” means a parent or another natural person legally entitled to receive a support payment on behalf of a child.

12. “Obligor” means a parent or another natural person legally responsible for the support of a dependent.

13. “Order” means a support order entered pursuant to chapter 234, 252A, 252C, 252F, 252H, 252K, 598, 600B, or any other support chapter, or pursuant to a comparable statute of a foreign jurisdiction, or an ex parte order entered pursuant to section 252E.4. “Order” also includes a notice of such an order issued by the child support recovery unit to an employer department.

14. “Plan administrator” means the employer or sponsor that offers the health benefit plan or the person to whom the duty of plan administrator is delegated by the employer or sponsor offering the health benefit plan, by written agreement of the parties.

15. “Primary care provider” means a physician who provides primary care who is a family or general practitioner, a pediatrician, an internist, an obstetrician, or a gynecologist.

Sec. 4. Section 252E.2, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

An insurer who is subject to the federal Employee Retirement Income Security Act, as codified in 29 U.S.C. § 1169, shall provide benefits in accordance with that section which meet the requirements of a qualified medical child support order. For the purposes of this subsection “qualified medical child support order” means and includes a medical child support order as defined in 29 U.S.C. § 1169, or a child support order which creates or recognizes the existence of a child’s right to, or assigns to a child the right to, receive benefits for which a participant or child is eligible under a group health plan or a notice of such an order issued by the child support recovery unit department, and which specifies the following:

Sec. 5. Section 252E.4, subsection 1, Code 2001, is amended to read as follows:

1. When a support order requires an obligor to provide coverage under a health benefit plan, the district court or the department may enter an ex parte order directing an employer to take all actions necessary to enroll an obligor’s dependent for coverage under a health benefit plan or may include the provisions in an ex parte income withholding order or notice of income withholding pursuant to chapter 252D. The child support recovery unit, where appropriate, shall issue a national medical support notice to an employer within two business days after the date information regarding a newly hired employee is entered into the centralized employee registry and matched with a noncustodial parent in the case being enforced by the unit. The department may amend the information in the ex parte order or may amend or terminate the national medical support notice regarding health insurance provisions if necessary to comply with health insurance requirements including but not limited to the provisions of section 252E.2, subsection 2, or to correct a mistake of fact.

Sec. 6. Section 252E.5, subsections 1 and 3, Code 2001, are amended to read as follows:

1. When the order has been forwarded to the obligor’s employer pursuant to section 252E.4, the order is binding on the employer and the employer’s insurer to the extent that the dependent is eligible to be enrolled in the plan under the applicable terms and conditions of the health benefit plan and the standard enrollment guidelines of the insurer. The employer shall allow enrollment of the dependent at any time, notwithstanding any enrollment season restrictions. If a provision of this section conflicts with a provision in the national medical support notice, or in subsection 9, the provision in the notice and subsection 9 shall apply.

3. The employer shall withhold from the employee’s compensation, the employee’s share, if any, of premiums for the health benefit plan in an amount that does not exceed the amount specified in the national medical support notice or the amount specified in 15 U.S.C. § 1673(b) and which is consistent with federal law. The employer shall forward the amount withheld to the insurer.

Sec. 7. Section 252E.5, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9. If the department issues a national medical support notice to an employer or plan administrator, all of the following shall apply:

- a. The employer and plan administrator shall comply with the provisions in the notice.
- b. The employer and the plan administrator shall treat the notice as an application by the department for health benefit plan coverage for the dependent to the extent such application is required by the health benefit plan.
- c. If the obligor named in the notice is not an employee of the employer, or if a health benefit plan is not offered or available to the employee, the employer shall notify the department, as provided in the notice, within twenty business days after the date of the notice.

d. If a health benefit plan is offered or available to the employee, the employer shall send the plan administrator's portion of the notice to each appropriate plan administrator within twenty business days after the date of the notice.

e. Upon notification from the plan administrator that the dependent is enrolled, the employer shall either withhold and forward the premiums as provided in subsection 3, or shall notify the department that the enrollment cannot be completed due to limits established for withholding as provided in subsection 3.

f. If the plan administrator notifies the employer that the obligor is subject to a waiting period that expires more than ninety days from the date of receipt of the notice by the plan administrator or that the obligor is subject to a waiting period that is measured in a manner other than the passage of time, the employer shall notify the plan administrator when the obligor becomes eligible to enroll in the plan and that the notice requires enrollment in the plan of the dependent named in the notice.

g. The plan administrator shall enroll the dependent, and if necessary to enrollment of the dependent shall also enroll the obligor, in the plan selected in accordance with this paragraph. All of the following shall apply to the selection of the plan:

(1) If the obligor is enrolled in a health benefit plan that offers dependent coverage, that plan shall be selected.

(2) If the obligor is not enrolled in a plan or is not enrolled in a plan that offers dependent coverage, and if only one plan with dependent coverage is offered by the employer, that plan shall be selected.

(3) If the obligor is not enrolled in a health benefit plan or is not enrolled in a health benefit plan that offers dependent coverage, if more than one plan with dependent coverage is offered by the employer, and if the notice is issued by the child support recovery unit, all of the following shall apply:

(a) If only one of the plans is accessible to the dependent, that plan shall be selected. If none of the plans with dependent coverage is accessible to the dependent, the unit shall amend or terminate the notice.

(b) If more than one of the plans is accessible to the dependent, the plan selected shall be the plan that provides basic coverage for which the employee's share of the premium is lowest.

(c) If more than one of the plans is accessible to the dependent but none of the accessible plans provides basic coverage, the plan selected shall be a plan that is accessible and for which the employee's share of the premium is lowest.

(d) If the employee's share of the premiums is the same under all plans described in subparagraph (b) or (c), the unit shall attempt to consult with the obligee when selecting the plan. If the obligee does not respond within ten days of the unit's attempt, the unit shall select a plan which shall be the plan's default option, if any, or the plan with the lowest deductibles and co-payment requirements.

(4) If the obligor is not enrolled in a health benefit plan or is not enrolled in a health benefit plan that offers dependent coverage, if more than one plan with dependent coverage is offered by the employer, and if the notice is issued by the child support enforcement agency of another state, that agency shall select the plan as provided in paragraph "h", subparagraph (3).

h. Within forty business days after the date of the notice, the plan administrator shall do all of the following as directed by the notice:

(1) Complete the appropriate portion of the notice and return the portion to the department.

(2) If the dependent is or is to be enrolled, notify the obligor, the obligee, and the child and furnish the obligee with necessary information. Provide the child support recovery unit with the type of health benefit plan under which the dependent has been enrolled, including whether dental, optical, office visits, and prescription drugs are covered services.

(3) If more than one health benefit plan is available to the obligor and the obligor is not enrolled, forward plan descriptions and documents to the department and enroll the dependent, and if necessary the obligor, in the plan selected by the department or in any default option if the plan administrator has not received a selection from the department within twenty busi-

ness days of the date the plan administrator returned the national medical support notice response to the department.

(4) If the obligor is subject to a waiting period that expires more than ninety days from the date of receipt of the notice by the plan administrator or if the obligor has not completed a waiting period that is measured in a manner other than the passage of time, notify the employer, the department, the obligor, and the obligee. Upon satisfaction of the period or requirement, complete the enrollment.

(5) Upon completion of the enrollment, notify the employer for a determination of whether the necessary employee share of the premium is available.

(6) If the plan administrator is subject to the federal Employee Retirement Income Security Act, as codified in 29 U.S.C. § 1169, or is subject to the federal Child Support Performance and Incentive Act of 1998, Pub. L. No. 105-200, § 401, subsection (e) or (f) and the plan administrator determines the notice does not constitute a qualified medical child support order, complete and send the response to the department and notify the obligor, the obligee, and the child of the specific reason for the determination.

Sec. 8. Section 252E.6, subsection 2, Code 2001, is amended to read as follows:

2. For cases for which services are being provided pursuant to chapter 252B, the department shall notify the employer when there is no longer a current order for medical support in effect for which the department is responsible. However, termination of an obligee's medical support ordered pursuant to section 252E.3 shall be governed by the insurer's health benefit plan provisions for termination and by applicable federal law.

Sec. 9. Section 252E.6A, Code 2001, is amended to read as follows:

252E.6A MOTION TO QUASH.

1. An obligor may move to quash the order to the employer under section 252E.4 by following the same procedures and alleging a mistake of a fact as provided in section 252D.31 or as provided in subsection 2. If the unit is enforcing an income withholding order and a medical support order simultaneously, any challenge to the income withholding order and medical support enforcement shall be filed and heard simultaneously.

2. The obligor may allege as a mistake of fact an error in the availability of dependent coverage under the health benefit plan because the coverage is not accessible to the dependent. Even if the plan is not accessible as defined in section 252E.1, the court may determine that the plan is substantially accessible if the obligee demonstrates that the dependent may receive a benefit under the plan. Section 252K.316 relating to evidence and procedure shall apply to the court proceeding.

2. 3. The employer shall comply with the requirements of this chapter until the employer receives notice that a motion to quash has been granted, or that the unit has amended or terminated the national medical support notice.

Sec. 10. Section 252H.2, subsection 12, Code 2001, is amended to read as follows:

12. "State" means "state" as defined in section ~~252A.2~~ 252K.101.

Sec. 11. Section 252H.3, subsection 1, Code 2001, is amended to read as follows:

1. Any action initiated under this chapter, including any court hearing resulting from an action, shall be limited in scope to the adjustment or modification of the child or medical support or cost-of-living alteration of the child support provisions of a support order. A determination of a controlling order is within the scope of this chapter. If the social security disability provisions of sections 598.22 and 598.22C apply, a determination of the amount of delinquent support due is within the scope of this chapter.

Sec. 12. Section 252H.8, subsection 4, paragraph g, Code 2001, is amended to read as follows:

g. Copies of any computation worksheet prepared by the unit to determine the amount of support calculated using the mandatory child support guidelines established under section

598.21, subsection 4, and, if appropriate and the social security disability provisions of sections 598.22 and 598.22C apply, a determination of the amount of delinquent support due.

Sec. 13. Section 252H.9, subsection 3, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. If applicable, the amount of delinquent support due based upon the receipt of social security disability payments as provided in sections 598.22 and 598.22C.

Sec. 14. Section 252H.16, subsection 1, Code 2001, is amended to read as follows:

1. The unit shall conduct the review and determine whether an adjustment is appropriate. As necessary, the unit shall make a determination of the controlling order or the amount of delinquent support due based upon the receipt of social security disability payments as provided in sections 598.22 and 598.22C.

Sec. 15. Section 252H.22, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The support order is not subject to the social security disability provisions pursuant to sections 598.22 and 598.22C.

Sec. 16. Section 598.21, subsection 4, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. For the purposes of including a child's dependent benefit in calculating a support obligation under this section for a child whose parent has been awarded disability benefits under the federal Social Security Act, the provisions of section 598.22C shall apply.

Sec. 17. Section 598.21, subsection 5A, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A support order, decree, or judgment entered or pending before July 1, 1997, that provides for support of a child for college, university, or community college expenses, may be modified in accordance with this subsection.

Sec. 18. Section 598.22, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Except as otherwise provided in section 598.22A, this section applies to all initial or modified orders for support entered under this chapter, chapter 234, 252A, 252C, 252F, 600B, or any other chapter of the Code. All orders or judgments entered under chapter 234, 252A, 252C, 252F, or 600B, or under this chapter or any other chapter which provide for temporary or permanent support payments shall direct the payment of those sums to the clerk of the district court or the collection services center in accordance with section 252B.14 for the use of the person for whom the payments have been awarded. Beginning October 1, 1999, all income withholding payments shall be directed to the collection services center. Payments to persons other than the clerk of the district court and the collection services center do not satisfy the support obligations created by the orders or judgments, except as provided for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for tax refunds or rebates in section 602.8102, subsection 47, or for dependent benefits paid to the child support obligee as the result of disability benefits awarded to the child support obligor under the federal Social Security Act. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the order for income withholding or notice of the order for income withholding shall require the payment of such sums to the alternate payee in accordance with the federal Act. For dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor under the federal Social Security Act, the provisions of section 598.22C shall apply.

Sec. 19. NEW SECTION. 598.22C CHILD SUPPORT — SOCIAL SECURITY DISABILITY DEPENDENT BENEFITS.

If dependent benefits are paid for a child as a result of disability benefits awarded to the child's parent under the federal Social Security Act, all of the following shall apply:

1. Unless the court otherwise provides, dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor fully satisfy and substitute for the support obligations for the same period of time for which the benefits are awarded.

2. For the purposes of calculating a support obligation under section 598.21, subsection 4, the dependent benefits paid for any child shall be included as income to the disabled parent.

3. a. Any order or judgment for support for a child for whom social security disability benefits are paid to the child support obligee as a result of disability benefits awarded to the child support obligor shall include all of the following:

(1) The dollar amount of the child support obligation as calculated by application of the guidelines under section 598.21, subsection 4, and a statement that the social security dependent benefits are included as income to the obligor in that calculation.

(2) The dollar amount of the social security dependent benefits paid to the obligee which shall be dollar-for-dollar satisfaction of the obligor's child support obligation.

(3) The dollar amount, if any, the obligor shall pay after application of the social security dependent benefits as a credit to or dollar-for-dollar satisfaction of the child support obligation.

b. The amount of the child support obligation stated in the order, and the amount the obligor shall pay after application of the social security disability dependent benefit credit or satisfaction stated in the order, shall continue until modified, as provided in section 598.21.

4. The amount of any child support obligation satisfied under this section based upon the receipt of dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor shall not be considered delinquent.

Sec. 20. Section 600.11, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A person who is ordered to pay support or a postsecondary education subsidy pursuant to section 598.21, subsection 5A, or chapter 234, 252A, 252C, 252F, 598, 600B, or any other chapter of the Code, for a person eighteen years of age or older who is being adopted by a stepparent, and the support order or order requires payment of support or postsecondary education subsidy for any period of time after the child reaches eighteen years of age.

Sec. 21. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION. Section 17 of this Act, relating to the modification of a support order, decree, or judgment pending on or before July 1, 1997, that provides for support of a child for college, university, or community college expenses, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to support orders, decrees, or judgments as described in section 17 of this Act entered or pending before July 1, 1997.

Approved March 15, 2002

CHAPTER 1019WATER POLLUTION CONTROL AND
DRINKING WATER FACILITIES FINANCING

S.F. 2145

AN ACT relating to terminology and eligibility for assistance under the sewage treatment and drinking water facilities financing program.

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

Section 1. Section 455B.291, Code 2001, is amended to read as follows:

455B.291 DEFINITIONS.

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

1. "Administration funds" means the sewage treatment water pollution control works administration fund and the drinking water facilities administration fund.
2. "Authority" means the Iowa finance authority established in section 16.2.
3. "Clean Water Act" means the federal Water Pollution Control Act of 1972, Pub. L. No. 92-500, as amended by the Water Quality Act of 1987, Pub. L. No. 100-4, as published in 33 U.S.C. § 1251 – 1376.
4. "Cost" means all costs, charges, expenses, or other indebtedness incurred by a ~~municipality or water system~~ loan recipient and determined by the director as reasonable and necessary for carrying out all works and undertakings necessary or incidental to the accomplishment of any project.
5. "Drinking water facilities administration fund" means the drinking water facilities administration fund established in section 455B.295.
6. "Drinking water ~~treatment facilities~~ revolving loan fund" means the drinking water ~~treatment facilities~~ revolving loan fund established in section 455B.295.
7. "Eligible entity" means a person eligible under the provisions of the Clean Water Act, the Safe Drinking Water Act, and the commission rules to receive loans for projects from either of the revolving loan funds.
8. "Loan recipient" means an eligible entity that has received a loan from either of the revolving loan funds.
7. ~~9.~~ "Municipality" means a city, county, sanitary district, state agency, or other governmental body or corporation empowered to provide sewage collection and treatment services, or any combination of two or more of the governmental bodies or corporations acting jointly, in connection with a project.
8. ~~10.~~ "Program" means the Iowa sewage treatment water pollution control and drinking water facilities financing program created pursuant to section 455B.294.
9. ~~11.~~ "Project" means one of the following:
 - a. In the context of sewage treatment water pollution control facilities, the acquisition, construction, reconstruction, extension, equipping, improvement, or rehabilitation of any works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste in a sanitary manner including treatment works as defined in section 212 of the Clean Water Act, or the implementation and development of management programs established under sections 319 and 320 of the Clean Water Act, including construction and undertaking of nonpoint source water pollution control projects and related development activities authorized under those sections.
 - b. In the context of drinking water facilities, the acquisition, construction, reconstruction, extending, remodeling, improving, repairing, or equipping of waterworks, water mains, extensions, or treatment facilities useful for providing potable water to residents served by a water system, including the acquisition of real property needed for any of the foregoing purposes, and such other purposes and programs as may be authorized under the Safe Drinking Water Act.

10. ~~12.~~ “Revolving loan funds” means the ~~sewage treatment water pollution control~~ works revolving loan fund and the drinking water ~~treatment facilities~~ revolving loan fund.

11. ~~13.~~ “Safe Drinking Water Act” means Title XIV of the federal Public Health Service Act, commonly known as the “Safe Drinking Water Act”, 42 U.S.C. § 300f et seq., as amended by the Safe Drinking Water Amendments of 1996, Pub. L. No. 104-182.

12. ~~14.~~ “~~Sewage treatment~~ Water pollution control works administration fund” means the ~~sewage treatment~~ water pollution control works administration fund established in section 455B.295.

13. ~~15.~~ “~~Sewage treatment~~ Water pollution control works revolving loan fund” means the ~~sewage treatment~~ water pollution control works revolving loan fund established in section 455B.295.

14. ~~16.~~ “Water system” means any community water system or nonprofit noncommunity water system, each as defined in the Safe Drinking Water Act, that is eligible under the rules of the department to receive a loan under the program for the purposes of undertaking a project.

Sec. 2. Section 455B.292, Code 2001, is amended to read as follows:

455B.292 FINDINGS.

The general assembly finds that the proper construction, rehabilitation, operation, and maintenance of modern and efficient wastewater treatment works, other water pollution control works, and drinking water facilities are essential to protecting and improving the state’s water quality and the health of its citizens; that protecting and improving water quality is an issue of concern to the citizens of the state; that in addition to protecting and improving the state’s water quality, adequate wastewater treatment and water pollution control works and drinking water facilities are essential to economic growth and development; that during the last several years the amount of federal grant money available to states and local governments for assistance in constructing and improving wastewater treatment works and safe drinking water facilities has sharply diminished and will likely continue to diminish; and that it is proper for the state to encourage local governments, individuals, and other entities to undertake ~~wastewater treatment~~ water pollution control and drinking water projects through the establishment of a state mechanism to provide loans at the lowest reasonable rates.

Sec. 3. Section 455B.293, Code 2001, is amended to read as follows:

455B.293 POLICY.

It is the policy of ~~the general assembly~~ this state that it is in the public interest to establish a ~~sewage treatment~~ water pollution control works and drinking water facilities financing program and revolving loan funds and administration funds to make loans available from the state to ~~municipalities and water systems~~ eligible entities for the purpose of undertaking projects. This section shall be broadly construed to effect and accomplish that purpose.

Sec. 4. Section 455B.294, Code 2001, is amended to read as follows:

455B.294 ESTABLISHMENT OF THE IOWA ~~SEWAGE TREATMENT~~ WATER POLLUTION CONTROL WORKS AND DRINKING WATER FACILITIES FINANCING PROGRAM.

The Iowa ~~sewage treatment~~ water pollution control works and drinking water facilities financing program is established for the purpose of making loans available to ~~municipalities and water systems~~ eligible entities to finance all or part of the costs of projects. The program shall be a joint and cooperative undertaking of the department and the authority. The department and the authority may enter into and provide any agreements, documents, instruments, certificates, data, or information necessary in connection with the operation, administration, and financing of the program consistent with this part, the Safe Drinking Water Act, the Clean Water Act, the rules of the department and the commission, the rules of the authority, and other applicable federal and state law. The authority and the department may act to conform the program to the applicable guidance and regulations adopted by the United States environmental protection agency.

Sec. 5. Section 455B.295, subsections 1, 2, and 4, Code 2001, are amended to read as follows:

1. Four separate funds are established in the state treasury, to be known as the ~~sewage treatment water pollution control~~ works revolving loan fund, the ~~sewage treatment water pollution control~~ works administration fund, the drinking water ~~treatment facilities~~ revolving loan fund, and the drinking water facilities administration fund.

2. Each of the revolving loan funds shall include sums appropriated to the revolving loan funds by the general assembly, sums transferred by action of the governor under section 455B.296, subsection 3, sums allocated to the state expressly for the purposes of establishing each of the revolving loan funds under the Clean Water Act and the Safe Drinking Water Act, all receipts by the revolving loan funds, and any other sums designated for deposit to the revolving loan funds from any public or private source. All moneys appropriated to and deposited in the revolving loan funds are appropriated and shall be used for the sole purpose of making loans to ~~the municipalities and water systems, as applicable,~~ eligible entities to finance all or part of the cost of projects. The moneys appropriated to and deposited in the ~~sewage treatment water pollution control~~ works revolving loan fund shall not be used to pay the nonfederal share of the cost of projects receiving grants under the Clean Water Act. The moneys in the revolving loan funds are not considered part of the general fund of the state, are not subject to appropriation for any other purpose by the general assembly, and in determining a general fund balance shall not be included in the general fund of the state but shall remain in the revolving loan funds to be used for their respective purposes. The revolving loan funds are separate dedicated funds under the administration and control of the authority and subject to section 16.31. Moneys on deposit in the revolving loan funds shall be invested by the treasurer of state in cooperation with the authority, and the income from the investments shall be credited to and deposited in the appropriate revolving loan funds.

4. The department and the authority may establish and maintain other funds or accounts determined to be necessary to carry out the purposes of this part and shall provide for the funding, administration, investment, restrictions, and disposition of the funds and accounts. The department and the authority may combine ~~the financial administration of the revolving loan funds and the administration of the revolving loan funds,~~ and cross collateralize the same, and the administration funds to the extent permitted by the Clean Water Act, the Safe Drinking Water Act, and other applicable federal law.

Sec. 6. Section 455B.296, subsection 3, Code 2001, is amended to read as follows:

3. Upon receipt of the joint recommendation of the department and the authority with respect to the amounts to be so reserved and transferred, and subject in all respects to the applicable provisions of the Clean Water Act, Safe Drinking Water Act, and other applicable federal law, the governor may direct that the recommended portion of a capitalization grant made in respect of one of the revolving loan funds in any year be reserved for the transfer to the other revolving loan fund. The authority and the department may effect the transfer of any funds reserved for such purpose, as directed by the governor, and shall cause the records of the program to reflect the transfer. Any sums so transferred shall be expended in accordance with the intended use plan for the applicable revolving loan fund.

Sec. 7. Section 455B.297, Code 2001, is amended to read as follows:

~~455B.297 LOANS TO MUNICIPALITIES AND WATER SYSTEMS~~ ELIGIBLE ENTITIES.

Moneys deposited in the revolving loan funds shall be used for the primary purpose of making loans to ~~municipalities and water systems~~ eligible entities to finance the cost of projects in accordance with the intended use plans developed by the department under section 455B.296. ~~The municipalities and water systems to which loans are to be made, loan recipients and the purposes of the loan, the purpose, amount of each loan, the interest rate of the loan, and the repayment terms of the loan, loans~~ shall be determined by the director, in accordance with rules adopted by the commission, in compliance with and subject to the terms and conditions of the Clean Water Act, and the Safe Drinking Water Act, and other applicable federal

law, as applicable, and any resolution, agreement, indenture, or other document of the authority, and rules adopted by the authority, relating to any bonds, notes, or other obligations issued for the program which may be applicable to the loan.

Sec. 8. Section 455B.298, subsections 2, 4, 6, and 7, Code 2001, are amended to read as follows:

2. Approve loan applications of ~~municipalities and water systems~~ eligible entities which satisfy the rules adopted by the commission, and the intended use plans developed by the department under section 455B.296.

4. Prepare and process, in coordination with the authority, documents relating to the extending of loans to ~~municipalities and water systems~~, the sale and issuance of bonds, notes, or other obligations of the authority relating to the program, and the administration of the program.

6. Charge each ~~municipality and water system~~ receiving a loan from the appropriate revolving loan fund recipient a loan origination fee and an annual loan servicing fee. The amount of the loan origination fees and the loan servicing fees established shall be relative to the amount of a loan made from the revolving loan fund. The director shall deposit the receipts from the loan origination fees and the loan servicing fees in the appropriate administration fund.

7. Consult with and receive the approval of the authority concerning the terms and conditions of loan agreements with ~~municipalities and water systems~~ as to the financial integrity of the loan.

Approved March 18, 2002

CHAPTER 1020

SEX OFFENDER REGISTRATION — ENROLLMENT, EMPLOYMENT, OR VOCATION AT HIGHER EDUCATION INSTITUTION

H.F. 2338

AN ACT relating to a person registering as a sex offender in a county where an institution of higher education is located, and providing penalties.

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

Section 1. NEW SECTION. 692A.3A REGISTRATION IN A COUNTY WHERE AN INSTITUTION OF HIGHER EDUCATION IS LOCATED.

1. REGISTRATION IN COUNTY OTHER THAN COUNTY OF RESIDENCE. In addition to the registration requirements in section 692A.3, a person required to register under this chapter, who is a full-time or part-time student or is employed or engaged in a vocation on a full-time or part-time basis at an institution of higher education in a county other than the county of residence, shall register with the sheriff of the county in which the institution is located, and provide the sheriff with the name of the institution. The person must register within five days of becoming a student, being employed, or engaging in a vocation at the institution.

2. REGISTRATION IN A COUNTY OF RESIDENCE. In addition to the registration requirements in section 692A.3, a person required to register under this chapter, who is a full-time or part-time student or is employed or engaged in a vocation on a full-time or part-time basis at an institution of higher education in the county of residence, shall notify the sheriff of the name

of the institution. The person must notify the sheriff within five days of becoming a student, being employed, or engaging in a vocation at the institution.

3. CHANGE IN STATUS. A person required to register under this chapter, within five days of the person's change in status as a student, or in employment or vocation, shall notify the sheriff of the county in which the information was provided of the changes. The sheriff shall send a copy of the information regarding the change to the department within three working days of receipt of the notice of the change.

Sec. 2. Section 692A.5, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Inform the person that if the person is a resident or a nonresident of a county where the person is a full-time or part-time student, or employed or engaged in a vocation on a full-time or part-time basis at an institution of higher education, the person must register in the county where the institution is located and notify the sheriff of the name of the institution, within five days of becoming a student, being employed, or engaging in a vocation at the institution. Inform the person that if the person changes status as a student, or in employment or vocation, the person shall notify the sheriff of the county in which the information was provided of the change within five days of the change.

Sec. 3. Section 692A.7, subsection 1, Code 2001, is amended to read as follows:

1. A person required to register under this chapter who knowingly violates any requirements specified under sections 692A.2 through, 692A.3, and 692A.4 commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. A person required to register under this chapter who violates any requirements specified under section 692A.3A commits a serious misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. However, a person required to register under this chapter who knowingly violates any of the requirements specified under sections section 692A.2 through, 692A.3, 692A.3A, or 692A.4 and who commits a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense is guilty of a class "C" felony. Any fine imposed for a second or subsequent violation shall not be suspended. The court shall not defer judgment or sentence for any violation of any requirements specified under sections section 692A.2 through, 692A.3, 692A.3A, or 692A.4. A knowing violation of a person who is on probation, parole, work release, or any other form of release to comply with any requirements specified under sections section 692A.2 through, 692A.3, 692A.3A, or 692A.4 shall result in the automatic revocation of the person's probation, parole, or work release. For purposes of this subsection, a violation occurs when a person knows or reasonably should know of the duty to fulfill a requirement specified in the offense charged.

Approved March 18, 2002

CHAPTER 1021

SECURITY INTERESTS IN EDUCATION LOANS

H.F. 2475

AN ACT providing for the establishment and perfection of a security interest in certain education loans.

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

Section 1. NEW SECTION. 261.43A SECURITY INTEREST IN EDUCATION LOANS.
A nonprofit organization qualifying for tax-exempt status under the Internal Revenue Code,

as defined in section 422.3, that provides or acquires education loans in the organization's normal course of business shall, notwithstanding any contrary provision of chapter 554 or other state law, establish and perfect a security interest and establish priority over other security interests in such education loans by filing in the same manner as provided for perfecting a security interest in a student loan pursuant to 20 U.S.C. § 1082(m)(1)(E). This section applies to education loans provided under this chapter by such nonprofit organizations and other education loans provided by such nonprofit organizations.

Approved March 18, 2002

CHAPTER 1022

SERVERS OF CIVIL PROCESS — APPOINTMENT BY SHERIFF

S.F. 2141

AN ACT authorizing sheriffs to appoint civil process servers.

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

Section 1. Section 331.652, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. The sheriff may appoint one or more civil process servers, subject to the provisions of section 331.903.

a. A person appointed by the sheriff as a civil process server may, under the direction of the sheriff, execute and return all writs and other legal process issued to the sheriff by legal authority.

b. The court shall take judicial notice of a civil process server's signature.

c. All costs for service of writs and other legal process by a civil process server shall be collected in accordance with the provisions of section 331.655.

d. Civil process servers shall not be considered to be a sheriff or a deputy sheriff for purposes of this chapter, or chapter 97B or 341A.

Approved March 21, 2002

CHAPTER 1023

SECURED TRANSACTIONS — LANDLORD LIENS

S.F. 2212

AN ACT relating to secured transactions, by providing for landlord liens.

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

Section 1. Section 570.1, subsection 2, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

3. A financing statement filed to perfect a lien in the farm products must include a statement

that it is filed for the purpose of perfecting a landlord's lien. Notwithstanding section 554.9515, such financing statement shall continue to be effective until a termination statement is filed.

4. Within twenty days after a landlord who has filed a financing statement receives a written demand, authenticated as provided in article 9 of chapter 554, from a tenant, the landlord shall file a termination statement, if the lien in the farm products has expired or if the tenant is no longer in possession of the leased premises and has performed all obligations under the lease.

Approved March 21, 2002

CHAPTER 1024

SCHOOL DISTRICT BOARDS OF DIRECTORS — SIZE AND METHOD OF ELECTION

H.F. 2183

AN ACT relating to the authority of the board of directors of a school district to change the number of directors or the method of election of directors following a federal decennial census, and providing an effective date.

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

Section 1. Section 275.23A, subsection 2, Code 2001, is amended to read as follows:

2. Following each federal decennial census the school board shall determine whether the existing director district boundaries meet the standards in subsection 1 according to the most recent federal decennial census. In addition to the authority granted to voters to change the number of directors or method of election as provided in sections 275.35, 275.36, and 278.1, the board of directors of a school district may, following a federal decennial census, by resolution and in accordance with this section, authorize a change in the method of election as set forth in section 275.12, subsection 2, or a change to either five or seven directors after the board conducts a hearing on the resolution. If the board proposes to change the number of directors from seven to five directors, the resolution shall include a plan for reducing the number of directors. If the board proposes to increase the number of directors to seven directors, two directors shall be added according to the procedure described in section 277.23, subsection 2. If necessary, the board of directors shall redraw the director district boundaries. The director district boundaries shall be described in a the resolution adopted by the school board. The resolution shall be adopted no earlier than November 15 of the year immediately following the year in which the federal decennial census is taken nor later than April 30 of the second year immediately following the year in which the federal decennial census is taken. A copy of the plan shall be filed with the area education agency administrator of the area education agency in which the school's electors reside. If the board does not provide for an election as provided in sections 275.35, 275.36, and 278.1 and adopts a resolution to change the number of directors or method of election in accordance with this subsection, the district shall change the number of directors or method of election as provided unless within twenty-eight days following the action of the board, the secretary of the board receives a petition containing the required number of signatures, asking that an election be called to approve or disapprove the action of the board in adopting the resolution. The petition must be signed by eligible electors equal in number to not less than one hundred or thirty percent of the number of voters at the last preceding regular school election, whichever is greater. The board shall either rescind its action or direct the county commissioner of elections to submit the question to the registered voters of the

school district at the next following regular school election or a special election. If a majority of those voting on the question at the election favors disapproval of the action of the board, the district shall not change the number of directors or method of election. If a majority of those voting on the question does not favor disapproval of the action, the board shall certify the results of the election to the department of management and the district shall change the number of directors or method of election as provided in this subsection. At the expiration of the twenty-eight-day period, if no petition is filed, the board shall certify its action to the department of management and the district shall change the number of directors or method of election as provided in this subsection.

Sec. 2. Section 277.23, Code 2001, is amended to read as follows:

277.23 DIRECTORS — NUMBER — CHANGE.

1. In any district including all or part of a city of fifteen thousand or more population and in any district in which the voters, or the board as provided in section 275.23A, subsection 2, have authorized seven directors, the board shall consist of seven members; in all other districts the board shall consist of five members.

2. A change from five to seven directors shall be effected in a district at the first regular election after authorization by the voters or the board, or when a district becomes wholly or in part within a city of fifteen thousand population or more in the following manner: If the term of one director of the five-member board expires at the time of said regular election, three directors shall be elected to serve until the third regular election thereafter; if the terms of two directors expire at the time of said the regular election, three directors shall be elected to serve until the third regular election thereafter and one director shall be elected to serve a term the expiration of which coincides with the expiration of the term of the director heretofore singly elected.

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

Approved March 21, 2002

CHAPTER 1025

MEDICAL ASSISTANCE PROGRAM — DISPROPORTIONATE SHARE HOSPITAL PAYMENTS FOR INPATIENT CHILDREN'S HOSPITAL SERVICES

H.F. 2487

AN ACT relating to the designation of specific children's hospitals as qualified hospitals under the medical assistance disproportionate share hospital payment program.

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

Section 1. DISPROPORTIONATE SHARE PAYMENTS — CHILDREN'S HOSPITALS. The department of human services shall designate a children's hospital that meets the criteria for a voting member of the national association of children's hospitals and related institutions and that operates as part of a licensed hospital, as a qualifying hospital for the purpose of receipt of disproportionate share hospital payments for inpatient services under the medical assistance program. Such a children's hospital shall be eligible for receipt of disproportionate share hospital funds, whether or not the children's hospital has a separate federal Medicare

provider number. The department of human services shall adopt rules and shall seek an amendment from the centers for Medicare and Medicaid of the United States department of health and human services, as necessary to implement this Act.

Approved March 21, 2002

CHAPTER 1026

THERAPEUTICALLY CERTIFIED OPTOMETRISTS

S.F. 374

AN ACT relating to the qualifications and authorization of therapeutically certified optometrists engaged in the practice of optometry, and providing an effective date.

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

Section 1. Section 154.1, unnumbered paragraph 3, Code 2001, is amended to read as follows:

Therapeutically certified optometrists may employ the following pharmaceuticals: ~~topical pharmaceutical agents, oral antimicrobial agents, oral antihistamines, oral antiglaucoma agents, and oral analgesic agents, all diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of conditions of the human eye and adnexa, pursuant to this paragraph, excluding the use of injections other than to counteract an anaphylactic reaction,~~ and notwithstanding section 147.107, may without charge supply any of the above listed pharmaceuticals to commence a course of therapy. Therapeutically certified optometrists may prescribe oral steroids for a period not to exceed fourteen days without consultation with a primary care physician. Therapeutically certified optometrists shall not prescribe oral Imuran or oral Methotrexate. Therapeutically certified optometrists may be authorized, where reasonable and appropriate, by rule of the board, to employ new diagnostic and therapeutic pharmaceutical agents approved by the United States food and drug administration on or after July 1, 2002, for the diagnosis and treatment of the human eye and adnexa. The board shall not be required to adopt rules relating to topical pharmaceutical agents, oral antimicrobial agents, oral antihistamines, oral antiglaucoma agents, and oral analgesic agents. Superficial foreign bodies may be removed from the human eye and adnexa. ~~These~~ The therapeutic efforts ~~of a therapeutically certified optometrist~~ are intended for the purpose of examination, diagnosis, and treatment of visual defects, abnormal conditions and diseases of the human eye and adnexa, for proper optometric practice or referral for consultation or treatment to persons licensed under chapter 148 or 150A. A therapeutically certified optometrist is an optometrist who is licensed to practice optometry in this state and who is certified by the board of optometry examiners to use the agents and procedures ~~listed in~~ authorized pursuant to this paragraph. A therapeutically certified optometrist shall be provided with a distinctive certificate by the board which shall be displayed for viewing by the patients of the optometrist.

Sec. 2. EMERGENCY RULES. The board of optometry examiners may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act, and the rules shall become effective immediately upon filing, unless a later effective date is specified in the rules. 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. 3. EFFECTIVE DATE. Section 2 of this Act, relating to the adoption of emergency rules, being deemed of immediate importance, takes effect upon enactment.

Approved March 28, 2002

CHAPTER 1027

SNOWMOBILES AND ALL-TERRAIN VEHICLES — TITLING, REGISTRATION, AND USE

S.F. 437

AN ACT relating to the registration and titling of all-terrain vehicles and snowmobiles and removing the restriction on the use of an all-terrain vehicle on public land without a measurable snow cover, and subjecting violators to a penalty.

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

Section 1. Section 321G.1, subsection 1, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Two-wheeled off-road motorcycles shall be considered all-terrain vehicles only for the purpose of titling and registration ~~and not for purposes of regulation~~. An operator of a two-wheeled off-road motorcycle is exempt from the safety instruction and certification program requirements of sections 321G.23 and 321G.24.

Sec. 2. Section 321G.2, subsection 1, Code 2001, is amended to read as follows:

1. Registration and titling of all-terrain vehicles and snowmobiles.

Sec. 3. Section 321G.3, Code Supplement 2001, is amended to read as follows:

321G.3 REGISTRATION AND NUMBERING REQUIRED.

1. Each all-terrain vehicle and snowmobile used on public land or ice of this state shall be currently registered and numbered. A person shall not operate, maintain, or give permission for the operation or maintenance of an all-terrain vehicle or snowmobile on public land or ice unless the all-terrain vehicle or snowmobile is numbered in accordance with this chapter, or in accordance with applicable federal laws, or in accordance with an approved numbering system of another state, and unless the identifying number set forth in the registration is displayed on each side of the forward half of the snowmobile and on the rear fender of the all-terrain vehicle as prescribed by rules of the commission.

2. A registration number shall be assigned, without payment of fee, to all-terrain vehicles and snowmobiles owned by the state of Iowa or its political subdivisions upon application for the number, and the assigned registration number shall be displayed on the all-terrain vehicle or snowmobile as required under section 321G.5. A registration number and certificate shall be assigned, without payment of fee, to an all-terrain vehicle or snowmobile which is exempt from registration but is being titled. A decal displaying an audit number shall not be issued and the registration shall not expire while the all-terrain vehicle or snowmobile is exempt. The application for registration shall indicate the reason for exemption from the fee. The registration certificate shall indicate the reason for exemption.

Sec. 4. Section 321G.5, Code Supplement 2001, is amended by striking the section and inserting in lieu thereof the following:

321G.5 DISPLAY OF IDENTIFICATION NUMBERS.

The owner shall display the identification number on an all-terrain vehicle or snowmobile in the manner prescribed by the rules of the commission.

Sec. 5. Section 321G.6, unnumbered paragraph 6, Code 2001, is amended to read as follows:

Upon the transfer of ownership of an all-terrain vehicle or snowmobile, the owner shall complete the form on the back of the title, if any, and registration, if any, and deliver both to the purchaser or transferee when the all-terrain vehicle or snowmobile is delivered. If the all-terrain vehicle or snowmobile is not titled, the owner shall complete the form on the back of the current registration certificate and shall deliver it the certificate to the purchaser or transferee at the time of delivering the all-terrain vehicle or snowmobile. If the all-terrain vehicle or snowmobile has not been titled and has not been registered, the owner shall deliver an affidavit for an unregistered and untitled all-terrain vehicle or snowmobile to the purchaser or transferee. The purchaser or transferee shall, within five thirty days of transfer, file a new application form with the county recorder with a fee of one dollar and the writing fee, and a transfer of number shall be awarded in the same manner as provided in an original registration. If the purchaser or transferee does not file a new application form within five thirty days of transfer, the transfer of number shall be awarded upon payment of all applicable fees plus a penalty of five dollars.

Sec. 6. Section 321G.8, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 6. Snowmobiles and all-terrain vehicles used exclusively as farm implements.

Sec. 7. Section 321G.13, subsection 10, Code Supplement 2001, is amended by striking the subsection.

Sec. 8. Section 321G.13, Code Supplement 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person shall not drive or operate a snowmobile on public land without a measurable snow cover.

Sec. 9. Section 321G.21, subsection 9, Code 2001, is amended to read as follows:

9. If the purchaser or transferee of an all-terrain vehicle or snowmobile is a dealer who holds the same for resale and operates the all-terrain vehicle or snowmobile only for purposes incidental to a resale and displays the special dealer's certificate, or does not operate the all-terrain vehicle or snowmobile or permit it to be operated, the transferee is not required to obtain a new registration certificate but upon transferring title or interest to another person shall sign the reverse side of the title, if any, and the registration certificate of the all-terrain vehicle or snowmobile indicating the name and address of the new purchaser. The purchaser may take the registration certificate to the county recorder and file a new application form with a fee of one dollar for transfer and the writing fee. A dealer shall make application and pay all registration and title fees if applicable on behalf of the purchaser of an all-terrain vehicle or snowmobile. The recorder shall award a transfer of the registration number. If the registration has expired while in the dealer's possession, the purchaser may renew the registration for the same fee and writing fee as if the purchaser is securing the original registration.

Sec. 10. Section 321G.29, subsections 1, 4, and 7, Code 2001, are amended to read as follows:

1. The owner of a snowmobile acquired on or after January 1, 1998, or an all-terrain vehicle acquired on or after January 1, 2000, other than a snowmobile or all-terrain vehicle used exclusively as a farm implement, shall apply to the county recorder of the county in which the owner resides for a certificate of title for the snowmobile or all-terrain vehicle. The owner of a snowmobile or all-terrain vehicle used exclusively as a farm implement may obtain a certificate of title. A person who owns a snowmobile or all-terrain vehicle that is not required to have a certificate of title may apply for and receive a certificate of title for the snowmobile or all-terrain vehicle and, subsequently, the snowmobile or all-terrain vehicle shall be subject to the requirements of this chapter as if the snowmobile or all-terrain vehicle were required to be titled. All snowmobiles or all-terrain vehicles that are titled shall be registered.

4. If a dealer buys or acquires a snowmobile or all-terrain vehicle for resale, the dealer shall report the acquisition to the county recorder on forms provided by the department and may apply for and obtain a certificate of title as provided in this chapter. If a dealer buys or acquires a used snowmobile or all-terrain vehicle, the dealer may apply for a certificate of title in the dealer's name within ~~fifteen~~ thirty days. If a dealer buys or acquires a new snowmobile or all-terrain vehicle for resale, the dealer may apply for a certificate of title in the dealer's name.

7. The county recorder shall maintain a record of any certificate of title which the county recorder issues and shall keep each certificate of title on record until the certificate of title has been inactive for five years. When issuing a title for a new snowmobile or new all-terrain vehicle, the county recorder shall obtain and keep on file the certificate of origin. When issuing a title and registration for a used snowmobile or all-terrain vehicle for which there is no title or registration, the county recorder shall obtain and keep on file the affidavit for the unregistered and untitled snowmobile or all-terrain vehicle.

Sec. 11. NEW SECTION. 321G.33 VEHICLE IDENTIFICATION NUMBER.

1. The department may assign a distinguishing number to an all-terrain vehicle or snowmobile when the serial number on the all-terrain vehicle or snowmobile is destroyed or obliterated and issue to the owner a special plate bearing the distinguishing number which shall be affixed to the all-terrain vehicle or snowmobile in a position to be determined by the department. The all-terrain vehicle or snowmobile shall be registered and titled under the distinguishing number in lieu of the former serial number. Every all-terrain vehicle or snowmobile shall have an identification number assigned and affixed as required by the department.

2. The commission shall adopt, by rule, the procedures for application and for issuance of an identification number for homebuilt all-terrain vehicles or snowmobiles.

3. A person shall not destroy, remove, alter, cover, or deface the manufacturer's vehicle identification number, the plate bearing it, or any vehicle identification number the department assigns to an all-terrain vehicle or snowmobile without the department's permission.

4. A person other than a manufacturer who constructs or rebuilds an all-terrain vehicle or snowmobile for which there is no legible identification number shall submit to the department an affidavit which describes the all-terrain vehicle or snowmobile. In cooperation with the county recorder, the department shall assign an identification number to the all-terrain vehicle or snowmobile. The applicant shall permanently affix the identification number to the all-terrain vehicle or snowmobile in a manner that such alteration, removal, or replacement of the identification number would be obvious.

Approved March 28, 2002

CHAPTER 1028**INTERESTS IN AGRICULTURAL LAND — QUALIFIED ENTERPRISES***S.F. 2210*

AN ACT relating to the acquisition and holding of agricultural land by qualified enterprises, by providing for activities related to baby chicks and fertilized chicken eggs, providing penalties, and providing an effective date.

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

Section 1. **PURPOSE.** The purpose of this Act is to promote economic and agricultural prosperity in this state, by providing opportunities for leading commercial enterprises that are engaged in the advancement of animal and human health sciences to acquire and hold agricultural land with certain restrictions and in a manner that complements rather than competes with the production of grain and livestock on farms in this state, and promises to enhance this state's preeminent position in agriculture.

Sec. 2. Section 10B.4A, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person required to file a report pursuant to this chapter is not required to register with the secretary of state as otherwise required in any chapter enumerated in this section.

Sec. 3. **NEW SECTION. 10D.1 DEFINITIONS.**

As used in this section,⁷ unless the context otherwise requires:

1. "Agricultural land" means land suitable for use in farming as defined in section 9H.1.
2. "Baby chicks" means the same as defined in section 168.1.
3. "Qualified enterprise" or "enterprise" means a domestic or foreign corporation subject to chapter 490, a nonprofit corporation organized under chapter 504A, a limited liability company as defined in section 490A.102, a cooperative association as defined in section 10.1, or a foreign business as defined in section 567.1.

Sec. 4. **NEW SECTION. 10D.2 QUALIFIED ENTERPRISES — AGRICULTURAL LAND INTERESTS.**

Notwithstanding any other provision of law, a qualified enterprise may acquire or hold an ownership or leasehold interest in agricultural land as long as the qualified enterprise complies with all of the following requirements:

1. The enterprise files a notice with the secretary of state not later than June 30, 2002. The notice shall be a simple statement providing the name of the enterprise and the address of the enterprise's registered office or registered agent. The notice shall indicate that the enterprise intends to acquire or hold an interest in agricultural land under this chapter. The secretary of state shall file the notice together with reports required for the enterprise as required in chapter 10B.

2. The enterprise holds a total of not more than one thousand two hundred eighty acres of agricultural land. The enterprise must hold not more than eight hundred acres of agricultural land in any one county.

3. The enterprise only holds the agricultural land for a designated or incidental use.

a. A designated use must relate to producing baby chicks or fertile chicken eggs for any of the following purposes:

- (1) Sale or resale as breeding stock or breeding stock progeny.
- (2) Research, testing, or experimentation related to the genetic characteristics of chickens.
- (3) The production and sale of products using biotechnological systems or techniques for purposes of manufacturing animal vaccine, pharmaceutical, or nutraceutical products.

⁷ See chapter 1175, §74 herein

b. An incidental use must be for a purpose related to the sale of a surplus commodity or cull animal that is produced or kept on the agricultural land, or to the sale of any by-product that is produced as part of a designated use.

Sec. 5. NEW SECTION. 10D.3 ENFORCEMENT — PENALTIES.

1. The office of attorney general or a county attorney shall enforce the provisions of this chapter.

2. A person who violates a provision of this chapter shall be subject to all of the following:

a. The person shall be assessed a civil penalty of not more than twenty-five thousand dollars. Each day that a violation exists constitutes a separate offense.

b. The person shall be divested of any land held in violation of this chapter within one year after judgment. The court may determine the method of divesting an interest held by a person found to be in violation of this chapter. A financial gain realized by the person that disposes of an interest held in violation of this chapter shall be forfeited.

c. The person shall pay all court costs and fees associated with any enforcement action which shall be taxed as court costs.

3. If the attorney general is the prevailing party, the moneys required to be paid or forfeited by a person who violates a provision of this chapter shall be deposited in the general fund of the state. If the county attorney is the prevailing party, the moneys shall be deposited in the general fund of the county.

4. The courts of this state may prevent and restrain violations of this chapter through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this chapter.

5. A person who is in violation of this chapter shall not be subject to an enforcement action other than as provided in this section.

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

Approved March 28, 2002

CHAPTER 1029

AREA EDUCATION AGENCIES — REORGANIZATION OR DISSOLUTION

S.F. 2260

AN ACT relating to the reorganization or dissolution of area education agencies and providing an effective date.

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

Section 1. Section 273.21, subsection 3, paragraph g, Code Supplement 2001, is amended to read as follows:

g. Transmit the completed plan to the state board by November 1. Plans received by the state board after November 1 shall be considered for area education agency reorganization taking effect no sooner than July 1 after the next succeeding fiscal year.

Sec. 2. Section 273.21, subsection 4, Code Supplement 2001, is amended to read as follows:

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, except that plans submitted to the state board after November 1 shall take effect no sooner than July 1 after the next succeeding fiscal year.

Sec. 3. Section 273.22, subsections 1, 2, 5, and 6, Code Supplement 2001, are amended to read as follows:

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 through 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 through 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 following approval of the reorganization plan by the state board as provided in section 273.21, subsection 4.

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 that begins on 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.

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 their current area education agency and the newly reorganized area education agency to join the newly reorganized 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 in accordance with the dates established under section 273.21, subsection 4. A school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.

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 in accordance with the dates established under section 273.21, subsection 4. 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. 4. Section 273.22, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Not later than fifteen days after the state board notifies an area education agency of its approval of the area education agency's reorganization plan or dissolution proposal, the area education agency shall notify the school districts located within the area education agency boundaries, the school districts and area education agencies that are contiguous to its boundaries, and any other school district under contract with the area education agency, of the state board's approval of the plan or proposal. A petition to join an area education agency or for release from a contract with an area education agency, in accordance with subsections 4 through 6, shall be filed not later than sixty days after the state board approves a reorganization plan or dissolution proposal in accordance with this chapter.

Sec. 5. Section 273.23, subsection 2, Code Supplement 2001, is amended to read as follows:

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 within the newly formed area education agency's boundaries or if an insufficient number of former 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.

Sec. 6. Section 273.23, subsection 8, Code Supplement 2001, is amended to read as follows:

8. For the school year beginning on the effective date of an area education agency reorganization as provided in this subchapter, the special education support services cost per pupil shall be based upon the combined base year 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 base year plus the allowable growth amount per pupil for special education support services for the budget year as calculated in section 257.8.

9. 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. 7. Section 273.23, Code Supplement 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 10. The special education support cost per pupil, the media cost per pupil, and the educational services cost per pupil for a school district petitioning into an area education agency shall be the special education support cost per pupil, media cost per pupil, and educational services cost per pupil of the area education agency into which it petitions if the petition is approved.

NEW SUBSECTION. 11. Unless the reorganization of an area education agency takes effect less than two years before the taking of the next federal decennial census, a newly formed area education agency shall, within one year of the effective date of the reorganization, redraw the boundary lines of director districts in the area education agency if a petition filed by a school district to join the newly formed area education agency, or for release from the newly formed area education agency, in accordance with section 273.22, subsections 4 through 6, was approved. Until the boundaries are redrawn, the boundaries for the newly formed area education agency shall be as provided in the reorganization plan approved by the state board in accordance with section 273.21.

Sec. 8. **EFFECTIVE DATE.** This Act, begin¹ deemed of immediate importance, takes effect upon enactment.

Approved March 28, 2002

CHAPTER 1030

STATE CAPITOL BUILDING AND GROUNDS — PRESERVATION AND ENHANCEMENT

S.F. 2116

AN ACT relating to the preservation and enhancement of the state capitol.

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

Section 1. **NEW SECTION.** 18A.6A CAPITOL — PRESERVATION OF ARCHITECTURAL AND HISTORIC INTEGRITY.

1. A state agency, branch of government, or any other entity responsible for a construction, remodeling, restoration, maintenance, or other project in, on, or on the grounds surrounding the capitol shall ensure that the project preserves and enhances the dignity, beauty, and architectural and historic integrity of the capitol.

2. A project described in subsection 1 may vary from the architectural or historic integrity of the capitol if such variance is necessary to comply with state or federal laws relating to building accessibility or occupational safety or health, to address life safety issues, or for other compelling reasons. However, the state agency, branch of government, or other entity responsible for a project involving a variance from the architectural or historic integrity shall submit the plans for such project to the capitol planning commission and the capital projects committee of the legislative council for review.

Approved March 29, 2002

¹ According to enrolled Act

CHAPTER 1031
REAL ESTATE BROKERS
S.F. 2133

AN ACT relating to real estate brokers, including defining the activities of a real estate broker, licensure and insurance coverage, and providing a penalty.

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

Section 1. Section 543B.3, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 9. Prepares offers to purchase or purchase agreements, listing contracts, agency disclosures, real property residential and agricultural rental agreements, real property commercial rental agreements of one year or less, and groundwater hazard statements, including any modifications, amendments, or addendums to these specific documents.

Sec. 2. Section 543B.15, subsection 8, Code 2001, is amended to read as follows:

8. To qualify for a license as a real estate broker, a person shall complete at least sixty contact hours of commission approved real estate education within twenty-four months prior to taking the broker examination. This education shall be in addition to the required salesperson prelicense course. The applicant shall have been a licensed real estate salesperson actively engaged in real estate for a period of at least twenty-four months preceding the date of application, or shall have had experience substantially equal to that which a licensed real estate salesperson would ordinarily receive during a period of twenty-four months, whether as a former broker or salesperson, a manager of real estate, or otherwise. ~~However, if the commission finds that an applicant could not acquire employment as a licensed real estate salesperson because of conditions existing in the area where the person resides, the experience requirement of this subsection may be waived for that person by the commission.~~

Sec. 3. Section 543B.47, subsections 1, 2, and 6, Code 2001, are amended to read as follows:

1. The real estate commission shall adopt rules requiring as a condition of licensure that all real estate licensees, except those who hold inactive licenses, carry errors and omissions insurance covering all activities contemplated under this chapter. The rules shall provide for administration of the insurance requirements of this section within the multiyear licensing structure required by section 543B.28. ~~However, the rules shall require licensees to submit evidence of compliance with this section at least annually and shall provide for review and determination of compliance on an annual basis within twenty calendar days of the commission's request, which may be made on a test basis, a random basis, or upon reasonable cause to question a licensee's compliance.~~

2. The commission shall contract with an insurance provider for a group policy under which coverage is available to all licensees, ~~and shall maintain coverage with the contracted provider unless the commission determines that continuing the contract is not reasonably practical.~~ The contract shall be solicited by competitive, sealed bid.

6. ~~Each licensee shall be notified of the required terms and conditions of coverage for the annual policy at least thirty days prior to the license renewal date or the anniversary of the license renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, must be filed with the commission by the license renewal date or the anniversary of the license renewal date by each licensee who elects not to participate in the group insurance program administered by the commission. Failure of a license applicant or licensee to carry the errors and omissions insurance required by this section, or to timely submit proof of coverage upon commission request, shall be grounds for the denial of an application for licensure, the denial of an application to renew a license, or the suspension or revocation of a license.~~

Sec. 4. NEW SECTION. 543B.48 CIVIL PENALTY AMOUNT.

Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed two thousand five hundred dollars per violation.

Approved March 29, 2002

CHAPTER 1032

COUNTY ISSUANCE OF DRIVER'S LICENSES, NONOPERATOR IDENTIFICATION CARDS, AND PERSONS WITH DISABILITIES IDENTIFICATION DEVICES

S.F. 2156

AN ACT authorizing all counties not served by a permanent state department of transportation facility to issue driver's licenses, nonoperator identification cards, and persons with disabilities identification devices under certain conditions.

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

Section 1. Section 321.186, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The department may examine every new applicant for a driver's license or any person holding a valid driver's license when the department has reason to believe that the person may be physically or mentally incompetent to operate a motor vehicle, or whose driving record appears to the department to justify the examination. ~~The examinations shall be held in every county within periods not to exceed fifteen days except that the driving skills test for a commercial driver's license shall be given only at locations where required driving skills may be adequately tested, including pretrip and off-road examinations.~~ The department shall make every effort to accommodate a functionally illiterate applicant when the applicant is taking a knowledge test. The department shall make every effort to have an examiner conduct the commercial driver's license driving skills tests at other locations in this state where skills may be adequately tested when requested by a person representing ten or more drivers requiring driving skills testing.

Sec. 2. Section 321M.1, Code Supplement 2001, is amended to read as follows:
321M.1 DEFINITIONS.

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

1. ~~“Cluster” means a group of four to six contiguous counties serving a population area comparable to an area served by a department itinerant team, that is subject to an agreement among the participating counties that is executed pursuant to chapter 28E.~~

2. 1. “Commercial driver's license” means a driver's license valid for the operation of a commercial motor vehicle, as regulated by chapter 321.

3. 2. “County issuance” means the system or process of issuing driver's licenses, nonoperator identification cards, and persons with disabilities identification devices, including all related testing, to the same extent that such items are issued by the department.

4. 3. “Department” means the state department of transportation.

5. 4. “Digitized photolicensing equipment” means the machines and related materials, obtained pursuant to contract, the use of which results in the on-site production of driver's licenses and nonoperator identification cards.

6. ~~“Digitized photolicensing equipment contract period” means the period of time that the contract for the digitized photolicensing equipment is in effect, including any contract extensions elected by the department under the terms of the contract.~~

7. ~~5.~~ “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, or temporary permit.

8. ~~“Initial opt-in period” means the first opportunity for a county to indicate its interest in being authorized to participate in county issuance.~~

9. ~~6.~~ “Issuing county” means a county that is participating in county issuance.

10. ~~“Itinerant team” means a traveling team of department personnel assigned to license issuance activities in a specified geographic area.~~

11. ~~7.~~ “Motor vehicle” means a vehicle which is self-propelled, including but not limited to automobiles, cars, motor trucks, semitrailers, motorcycles, and similar vehicles regulated under chapter 321.

12. ~~8.~~ “Nonoperator identification card” means the card issued pursuant to section 321.190 that contains information pertaining to the personal characteristics of the applicant but does not convey to the person issued the card any operating privileges for any motor vehicle.

13. ~~“Opt in” means a county’s indication of its interest in being authorized to participate in county issuance, or to continue participating in county issuance.~~

14. ~~“Opt-in period” means a time period when a county may indicate its interest in being authorized to participate in county issuance, or to continue participating in county issuance.~~

15. ~~“Opt out” means the choice of a county that is authorized to issue licenses to terminate that authorization and its participation in county issuance.~~

16. ~~“Opt-out period” means a time period when a county that is authorized to issue licenses may terminate that authorization and its future participation in county issuance.~~

17. ~~9.~~ “Persons with disabilities identification devices” means those devices issued pursuant to chapter 321L.

Sec. 3. Section 321M.3, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

321M.3 AUTHORIZATION TO ISSUE LICENSES.

Adair, Adams, Allamakee, Appanoose, Audubon, Benton, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Cass, Cedar, Cherokee, Chickasaw, Clarke, Clayton, Crawford, Dallas, Davis, Decatur, Delaware, Dickinson, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Jones, Keokuk, Kossuth, Lee, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Mills, Mitchell, Monona, Monroe, Montgomery, O’Brien, Osceola, Page, Palo Alto, Plymouth, Pocahontas, Poweshiek, Ringgold, Sac, Shelby, Sioux, Tama, Taylor, Union, Van Buren, Warren, Washington, Wayne, Winnebago, Winneshiek, Worth, and Wright counties shall be authorized to issue driver’s licenses, nonoperator identification cards, and persons with disabilities identification devices on a permanent basis, provided that such counties continue to meet the department’s standards for issuance.

Sec. 4. Section 321M.4, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

321M.4 TERMINATION OF AUTHORIZATION — FAILURE TO MEET STANDARDS.

1. If a county is subject to termination of its county issuance authorization for failure to meet the department’s standards for issuance, the county shall not issue driver’s licenses, nonoperator identification cards, or persons with disabilities identification devices until the county has been reauthorized by the department.

2. The department is not obligated to provide service in a county for issuance of driver’s li-

censes, nonoperator identification cards, or persons with disabilities identification devices if the county fails to meet the department's standards for issuance.

Sec. 5. Section 321M.5, subsection 2, paragraphs e and f, Code 2001, are amended by striking the paragraphs.

Sec. 6. Section 321M.6, subsection 2, paragraph c, Code 2001, is amended to read as follows:

c. The department provides supervision over the issuance of commercial driver's licenses, including the administration of written and driving skills tests by the office of the county treasurer. However, the failure of the department to provide appropriate supervision shall not alone be used as a reason to deny certification.

Sec. 7. Section 321M.6, subsection 4, Code 2001, is amended to read as follows:

4. ~~The issuance of commercial driver's licenses for residents of a county whose issuance rights have been terminated under subsection 3 may be provided by other counties in the relevant cluster, according to the provisions of section 321M.5. The department is not obligated to provide service in a county for issuance of commercial driver's licenses if the county fails to meet certification standards under this section. However, the department shall facilitate appropriate arrangements for availability of such services as it deems necessary.~~

Sec. 8. Section 321M.9, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. An issuing county shall be entitled to one set of digitized photolicensing equipment, unless the county was served at multiple sites by the department, in which case the county shall be entitled to two sets of digitized photolicensing equipment. ~~A county shall indicate at the time of opting in how many sets of equipment are needed by the county.~~

Sec. 9. Section 321M.10, subsection 1, Code 2001, is amended to read as follows:

1. The department shall retain all supervisory authority over the county treasurers who shall be subject to the supervision of the department and driver's license issuance program. The county treasurers and their employees shall be considered agents of the department when performing driver's licensing functions.

Sec. 10. Section 321M.8, Code 2001, is repealed.

Approved March 29, 2002

CHAPTER 1033

STATE HEALTH INSURANCE PLANS — ADMINISTRATION COSTS

S.F. 2167

AN ACT establishing a health insurance administration fund relating to the payment of the administrative costs of state health insurance plans and providing for its prospective repeal.

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

Section 1. NEW SECTION. 19A.12F HEALTH INSURANCE ADMINISTRATION FUND.

1. A special fund is created in the office of the treasurer of state, separate and apart from

all other public moneys or funds of this state, to be known as the Iowa state health insurance administration fund, hereafter referred to as the fund. The fund shall consist of all moneys deposited in the fund from proceeds of a monthly per contract administrative charge assessed by the department of personnel and collected by the department of revenue and finance. Moneys deposited in the fund shall be expended by the department of personnel for health insurance program administration costs.

2. A monthly per contract administrative charge shall be assessed by the department of personnel on all health insurance plans administered by the department in which the contract holder has a state employer to pay the charge. The amount of the administrative charge shall be established by the general assembly. The department of revenue and finance shall collect the administrative charge from each department utilizing the centralized payroll system and shall deposit the proceeds in the fund. In addition, the state board of regents, all library service areas, the state fair board, the state department of transportation, and each judicial district department of correctional services shall remit the administrative charge on a monthly basis to the department of revenue and finance and shall submit a report to the department of revenue and finance containing 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. The expenditure of moneys from the fund in any fiscal year shall not exceed the amount of the monthly charge established by the general assembly multiplied by the number of health insurance contracts in effect at the beginning of the same fiscal year in which the expenditures shall be made. Any unencumbered or unobligated moneys in the fund at the end of the fiscal year shall not revert but shall be transferred to the health insurance premium reserve fund established pursuant to section 509A.5.

4. This section is repealed July 1, 2007.

Sec. 2. STATE EMPLOYEE HEALTH INSURANCE ADMINISTRATION CHARGE. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, the monthly per contract administrative charge which may be assessed by the department of personnel pursuant to section 19A.12F shall be two dollars per contract on all health insurance plans administered by the department.

Approved March 29, 2002

CHAPTER 1034

SINGLE CONTACT REPOSITORY — HOSPITAL ACCESS TO CURRENT AND PROSPECTIVE EMPLOYEE RECORDS

S.F. 2231

AN ACT providing for hospital access to abuse registries for purposes of employment checks.

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

Section 1. NEW SECTION. 135B.34 SINGLE CONTACT REPOSITORY — RECORD CHECKS.

A hospital licensed in this state may access the single contact repository established by the department pursuant to section 135C.33 as necessary for the hospital to perform record checks of persons employed or being considered for employment by the hospital.

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

NEW SUBPARAGRAPH. (11) To an administrator of a hospital licensed under chapter 135B if the data concerns a person employed or being considered for employment by the hospital.

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

NEW SUBPARAGRAPH. (7) To an administrator of a hospital licensed under chapter 135B if the data concerns a person employed or being considered for employment by the hospital.

Approved March 29, 2002

CHAPTER 1035

REGISTRATION OF WATERCRAFT

H.F. 2082

AN ACT expanding the time periods within which watercraft must be registered after a sale or transfer and within which watercraft may be operated without an identification number.

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

Section 1. Section 462A.44, Code 2001, is amended to read as follows:

462A.44 APPLICATION FOR TRANSFER.

The purchaser or transferee shall, except as otherwise provided by this chapter, within five thirty days of the purchase or transfer file a new application form with the county recorder with a fee of one dollar and the appropriate writing fee, and a transfer of number shall be awarded in the same manner as provided for in an original registration.

Sec. 2. Section 462A.48, Code 2001, is amended to read as follows:

462A.48 SALES BY DEALER.

Upon the sale of a vessel by a manufacturer or dealer, the purchaser shall within five thirty days of the purchase make application for registration and the purchaser may operate the vessel without its individual identification number thereon for a period of not more than ~~ten~~ thirty-five days after the purchase date, provided that during such period the vessel shall have attached thereto, in accordance with the provisions of this chapter, a pasteboard card bearing the words "registration applied for" and the special certificate number of the dealer from whom the vessel was purchased together with the date of purchase plainly stamped or stenciled thereon.

Approved March 29, 2002

CHAPTER 1036**STUDENT FINANCIAL AID PROGRAMS —
MODIFICATION OR WAIVER OF REQUIREMENTS IN NATIONAL EMERGENCY***H.F. 2138*

AN ACT authorizing the college student aid commission to waive or modify statutory or regulatory provisions applicable to state financial aid programs for affected students in the event of a national emergency and including a retroactive applicability provision.

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

Section 1. NEW SECTION. 261.6 RESPONSE TO NATIONAL EMERGENCY — WAIVER AUTHORITY.

1. For purposes of this section, unless the context otherwise requires:

a. “Active duty” means “active duty” as defined in 10 U.S.C. § 101(d)(1), except that the term does not include active duty for training or attendance at a service school.

b. “Affected individual” means an individual who is serving on active duty during the national emergency; or who resides or is employed in an area that is declared a disaster area by any federal, state, or local official in connection with the national emergency; or who suffered direct economic hardship as a result of the national emergency, as determined under a waiver or modification issued pursuant to this section.

c. “Serving on active duty during the national emergency” means any of the following individuals:

(1) A reserve of an armed force ordered to active duty under 10 U.S.C. § 12301(a), 12301(g), 12302, 12304, or 12306, or any retired member of an armed force ordered to active duty under 10 U.S.C. § 688, as amended, for service in connection with the emergency or subsequent actions or conditions, regardless of the location at which the active duty service is performed.

(2) Any other member of an armed force on active duty in connection with the emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which the member is normally assigned.

2. Notwithstanding any other provision of this chapter, in the event of a national emergency declared by the president of the United States by reason of terrorist attack, the commission may waive or modify any statutory or regulatory provision applicable to state financial aid programs established pursuant to this chapter to ensure, with regard to affected individuals, that the following occurs:

a. The financial positions of affected individuals who are state student loan borrowers are not worsened in relation to those loans because of their status as affected individuals.

b. Administrative requirements placed on state student loan borrowers are minimized, to the extent possible, without impairing the integrity of the student loan programs, to ease the burden on these borrowers and to avoid inadvertent technical violations or defaults.

c. The calculation of “annual adjusted family income” and “available income”, as used in the determination of need for student financial assistance under 20 U.S.C. § 1070 et seq., for affected individuals, or, if applicable, for the spouses or dependents of affected individuals, may be modified to mean the sums received in the first calendar year of the award year for which the determination is made, in order to reflect more accurately the financial condition of the affected individuals or their families.

3. Notwithstanding any other provision of this chapter, in the event of a national emergency declared by the president of the United States by reason of terrorist attack, the commission may grant temporary relief from requirements rendered infeasible or unreasonable, including due diligence requirements and reporting deadlines, by the national emergency, to an institution of higher education under the state board of regents, a community college, an accredited private institution as defined in section 261.9, eligible lenders, and other entities participating in the state student assistance programs in accordance with this chapter, that are located in,

or whose operations are directly affected by, areas that are declared disaster areas by any federal, state, or local official in connection with the national emergency. If the commission issues a waiver in accordance with this section, the report prepared by the commission pursuant to section 17A.9A, subsection 5, shall include examples of measures that a postsecondary institution may take in the appropriate exercise of discretion, as provided in 20 U.S.C. § 1087tt, to adjust financial need and aid eligibility determinations for affected individuals.

4. This section shall not be construed as a requirement that the commission exercise the waiver or modification authority provided pursuant to this section on a case-by-case basis.

Sec. 2. RETROACTIVE APPLICABILITY. This Act applies retroactively to September 11, 2001, and is applicable on and after that date.

Approved March 29, 2002

CHAPTER 1037

MILITARY HONOR GUARD SERVICES ON PUBLIC PROPERTY

H.F. 2150

AN ACT relating to the performance of honor guard services on public property by members of a reserve officer training corps, the Iowa national guard, or the reserve forces of the United States.

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

Section 1. Section 35A.12, Code Supplement 2001, is amended to read as follows:

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, the Iowa national guard, the reserve forces of the United States, or a reserve officers training corps shall be allowed to perform any honor guard service on public property.

Approved March 29, 2002

CHAPTER 1038CONFIDENTIAL PUBLIC RECORDS —
SCHOOL SECURITY OR EMERGENCY PREPAREDNESS*H.F. 2151*

AN ACT adding certain information concerning school security or emergency preparedness to the list of public records kept confidential.

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

Section 1. Section 22.7, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 43. Information concerning security procedures or emergency preparedness information regarding a school corporation if disclosure could reasonably be expected to jeopardize student, staff, or visitor safety. This subsection is repealed effective June 30, 2007.

Approved March 29, 2002

CHAPTER 1039

CRIMINAL SENTENCING PROCEDURES — VICTIM IMPACT STATEMENTS

H.F. 2153

AN ACT relating to presentation of victim impact statements at criminal sentencing hearings.

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

Section 1. Section 915.13, subsection 1, paragraph d, Code 2001, is amended to read as follows:

d. The victim's right to make a victim impact statement, in ~~one or both~~ any of the following formats:

(1) Written victim impact statement, delivered in court in the presence of the defendant. Notification shall include the procedures for filing such a statement.

(2) Oral victim impact statement, delivered in court in the presence of the defendant. The victim shall also be notified of the time and place for such statement.

(3) Video victim impact statement, delivered in court in the presence of the defendant. Notification shall include the procedures for making and filing the video recording.

(4) Audio victim impact statement, delivered in court in the presence of the defendant. Notification shall include the procedures for making and filing the audio recording.

Sec. 2. Section 915.21, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. A victim may file a signed victim impact statement with the county attorney, and a filed impact statement shall be included in the presentence investigation report. If a presentence investigation report is not ordered by the court, a filed victim impact statement shall be provided to the court prior to sentencing. Unless requested otherwise by the victim, the victim impact statement shall be presented at the sentencing hearing in the presence of the defendant, and at any hearing regarding reconsideration of sentence. The victim impact statement may be presented by the victim or the victim's attorney or designated representative.

Sec. 3. Section 915.21, subsection 1, Code 2001, is amended by adding the following new paragraphs:

NEW PARAGRAPH. bb. A victim may make a video recording of a statement or, if available, may make a statement from a remote location through a video monitor at the sentencing hearing, in the presence of the defendant, and at any hearing regarding reconsideration of sentence.

NEW PARAGRAPH. bc. A victim may make an audio recording of the statement or appear by audio via a speakerphone to make a statement, to be delivered in court in the presence of the defendant, and at any hearing regarding reconsideration of sentence.

Sec. 4. Section 915.21, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 3. A victim shall not be placed under oath and subjected to cross examination at the sentencing hearing.

NEW SUBSECTION. 4. Nothing in this section shall be construed to affect the inherent power of the court to regulate the conduct of persons present in the courtroom.

Approved March 29, 2002

CHAPTER 1040

FOREIGN AND INTERNATIONAL ADOPTION PROCEDURES

H.F. 2190

AN ACT relating to the procedural requirements for foreign and international adoption and providing an effective date.

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

Section 1. Section 144.23, subsection 3, unnumbered paragraph 2, Code 2001, is amended by striking the unnumbered paragraph.

Sec. 2. NEW SECTION. 144.25A CERTIFICATE OF BIRTH — FOREIGN AND INTERNATIONAL ADOPTIONS.

The department shall adopt rules pursuant to chapter 17A to establish a procedure for the issuance of a certificate of birth for children adopted pursuant to section 600.15.

Sec. 3. Section 600.13, subsection 5, Code Supplement 2001, is amended to read as follows:

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 this state but in the United States,~~ 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. 4. Section 600.15, Code Supplement 2001, is amended to read as follows:
600.15 FOREIGN AND INTERNATIONAL ADOPTIONS.

~~1. a.~~ A decree establishing a parent-child relationship by adoption which is issued pursuant to due process of law by a juvenile court or court of any other jurisdiction ~~in~~ within or outside the United States shall be recognized in this state.

~~b.~~ A decree ~~terminating a parent-child relationship which is issued pursuant to due process of law by a juvenile court or court of any other jurisdiction in the United States shall be recognized in this state.~~

~~c.~~ Documentation demonstrating that a child has been legally released or approved for adoption by the child's country of origin shall be accepted as evidence that termination of parental rights has been completed in that country and shall be recognized in this state.

~~2.~~ If an adoption has occurred in the minor person's country of origin, a further adoption must occur in the state where the adopting parents reside in accordance with the adoption laws of that state.

~~3.~~ A licensed child-placing agency as defined in section 238.2, a person making an independent placement as defined in section 600A.2, or an investigator may provide necessary assistance to an eligible citizen of Iowa who desires to, in accordance with the immigration laws of the United States, make an international adoption.

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

Approved March 29, 2002

CHAPTER 1041

STRATEGIC INVESTMENT FUND — USE OF FUND MONEYS

H.F. 2229

AN ACT relating to use of moneys in the strategic investment fund.

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

Section 1. Section 15.312, Code 2001, is amended to read as follows:
15.312 PURPOSE.

The purpose of this part shall be to provide a mechanism for the funding those of programs listed in section 15.313, subsection 2, in order to more efficiently meet the needs identified within those individual programs which meet the descriptions provided in section 15.313, subsection 2.

Sec. 2. Section 15.313, subsections 2, 3, and 4, Code 2001, are amended to read as follows:

2. The assets of the fund shall be used by the department for ~~the following programs and purposes to assist in relocation or expansion projects for existing businesses as well as entre-~~

preneurial start-up and expansion projects. Moneys in the fund shall be used for projects designed to meet any of the following purposes:

a. The community economic betterment program created in sections 15.315 through 15.320 To assist communities in the state by providing financial assistance for small business gap financing, new business opportunities, and new product and entrepreneurial development.

b. The business development finance corporation created in sections 15E.131 through 15E.149 To provide financial and technical assistance to early-stage industry companies and entrepreneurs.

c. The self-employment loan program created in section 15.241 To provide financial and technical assistance to targeted small businesses as defined in section 15.102.

d. The targeted small business financial assistance program created in section 15.247.

e. ~~d.~~ To provide comprehensive management assistance for applicants or recipients of assistance from programs supported by the fund.

f. ~~e.~~ If ~~To access federal~~ funds are available under a any federal microloan demonstration program, a portion of the moneys in the strategic investment fund may be utilized to access those federal funds to expand the state's small business financial assistance programs including the self-employment loan program and the targeted small business financial assistance program.

g. ~~f.~~ The entrepreneurs with disabilities program, which provides technical and financial assistance to help persons with disabilities become self-sufficient and create additional employment opportunities by establishing or expanding small business ventures To provide technical and financial assistance to help persons with disabilities become self-sufficient by establishing or expanding business ventures.

h. The job opportunities for persons with disabilities program, which provides service and technical assistance to rehabilitation organizations or agencies that create, expand, or spin off business ventures for persons with disabilities.

i. The value-added agricultural products and processes financial assistance fund created in section 15E.112.

3. The assets of the fund may be used for purposes of administering and operating the entrepreneurial ventures assistance program established in section 15.339.

g. To assist businesses in retooling or upgrading production equipment to meet contemporary technology standards.

4. ~~3.~~ The director shall submit annually at a regular or special meeting preceding the beginning of the fiscal year, for approval by the economic development board, the proposed allocation of funds from the strategic investment fund to be made for that fiscal year to the community economic betterment program, the business development finance corporation, the self-employment loan program, and the targeted small business financial assistance program and for comprehensive management assistance. If funds are available under a federal microloan demonstration program, the director may recommend an allocation for that purpose. The plans may provide for increased or decreased allocations if the demand in a program indicates that the need exceeds the allocation for that program. At the beginning of each fiscal year, the board shall establish goals for the strategic investment fund relating to the intended strategic focus for the fiscal year. The director shall report on a monthly basis to the board on the status of the funds and may present proposed revisions for approval by the board in January and April of each year fund. Unobligated and unencumbered moneys remaining in the strategic investment fund or any of its accounts on June 30 of each year shall be considered part of the fund for purposes of the next year's allocation.

CHAPTER 1042**OPERATING WHILE INTOXICATED —
PENALTIES FOR THIRD OR SUBSEQUENT OFFENSES***H.F. 2230*

AN ACT relating to sentences of incarceration for third or subsequent operating-while-intoxicated motor vehicle offenses.

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

Section 1. Section 321J.2, subsection 2, paragraph c, Code 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

c. A class "D" felony for a third offense and each subsequent offense, and shall be committed to the custody of the director of the department of corrections for an indeterminate term not to exceed five years, shall be confined for a mandatory minimum term of thirty days, and shall be assessed a fine of not less than two thousand five hundred dollars nor more than seven thousand five hundred dollars.

(1) If the court does not suspend a person's sentence of commitment to the custody of the director of the department of corrections under this paragraph "c", the person shall be assigned to a facility pursuant to section 904.513.

(2) If the court suspends a person's sentence of commitment to the custody of the director of the department of corrections under this paragraph "c", the court shall order the person to serve not less than thirty days nor more than one year in the county jail, and the person may be committed to treatment in the community under section 907.6.

Sec. 2. Section 902.3, Code 2001, is amended to read as follows:

902.3 INDETERMINATE SENTENCE.

When a judgment of conviction of a felony other than a class "A" felony is entered against a person, the court, in imposing a sentence of confinement, shall commit the person into the custody of the director of the Iowa department of corrections for an indeterminate term, the maximum length of which shall not exceed the limits as fixed by section 902.9, unless otherwise prescribed by statute, nor shall the term be less than the minimum term imposed by law, if a minimum sentence is provided. However, ~~if the court may sentence a person convicted of a class "D" felony for a violation of section 321J.2 to imprisonment for up to one year in a county jail under section 902.9, subsection 5, and the person shall not be under the custody of the director of the Iowa department of corrections~~ suspends a person's sentence under section 321J.2, subsection 2, paragraph "c", the court shall order the offender to serve time in the county jail as provided in section 321J.2, subsection 2, paragraph "c", notwithstanding any provision to the contrary in section 903.4.

Sec. 3. Section 902.9, subsection 5, Code Supplement 2001, is amended to read as follows:

5. A class "D" felon, not an habitual offender, shall be confined for no more than five years, and in addition shall be sentenced to a fine of at least seven hundred fifty dollars but not more than seven thousand five hundred dollars. ~~A class "D" felon, such felony being for a violation of section 321J.2, may be sentenced to imprisonment for up to one year in the county jail.~~

Approved March 29, 2002

CHAPTER 1043

PROPERTY TAX AND VEHICLE REGISTRATION PROCEDURES

H.F. 2246

AN ACT relating to administrative procedures of county treasurers for property taxation and vehicle registration.

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

Section 1. Section 321.40, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

On or before the fifteenth day of the eleventh month of a vehicle's registration year, the department shall create an electronic file and the county treasurer shall send a statement by mail of fees due to the appropriate owner of record. After the department has generated the electronic file used to produce statements for a registration month, and before the fifteenth day of the month following expiration of a vehicle's registration year, the department shall create a subsequent electronic file and the county treasurer shall send a statement of fees due to the appropriate owner of record for any vehicle subsequently registered for that registration month. The statement shall be mailed or electronically transmitted to the most current address of record, showing information sufficient to identify the vehicle and a listing of the various fees as appropriate. Failure to receive a statement shall have no effect upon the accrual of penalty at the appropriate date.

Sec. 2. Section 321.134, subsection 1, Code 2001, is amended to read as follows:

1. On the first day of the second month following the beginning of each registration year a penalty of five percent of the annual registration fee shall be added to the registration fees not paid by that date and an additional penalty of five percent shall be added the first day of each succeeding month, until the fee is paid. A penalty shall not be less than five dollars. If the owner of a vehicle surrenders the registration plates for a vehicle prior to the plates becoming delinquent, to the county treasurer of the county where the vehicle is registered, or to the department if the vehicle is registered under chapter 326, the owner may register the vehicle any time thereafter upon payment of the registration fee for the registration year without penalty. The penalty on vehicles registered under chapter 326 shall accrue February 1 of each year. To avoid a penalty or an additional penalty in the case of a delinquent registration, if the last calendar day of a month falls on Saturday, Sunday, or a holiday, the payment deadline is extended to include the first business day of the following month. However, an electronic payment must be initiated by midnight on the last day of the month preceding the delinquent date.

Sec. 3. Section 331.553, subsection 3, Code 2001, is amended to read as follows:

3. Require that payment be made by guaranteed funds for tax sale redemptions, issuance of plat clearances, issuance of tax clearances for mobile homes, payments of taxes or assessments made within the ~~ten~~ thirty days prior to the annual tax sale or any adjournment of the tax sale, and any other payment which is to be collected by the county treasurer. For the purposes of this subsection, "guaranteed funds" means cash, cashier's check, money order, travelers' check, or certified check.

Sec. 4. Section 331.559, subsection 20, Code Supplement 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~~ may dispose of the tax list delivered to the county treasurer pursuant to chapter 443.

Sec. 5. Section 445.36, subsection 2, Code 2001, is amended to read as follows:

2. A demand of taxes is not necessary, but every person subject to taxation shall attend at the office of the county treasurer and pay the taxes either in full, or one-half of the taxes before September 1 succeeding the levy, and the remaining half before March 1 following. However, if the first installment of taxes is delinquent and not paid as of February 15, the treasurer shall mail a notice to the taxpayer of the delinquency and the due date for the second installment. Failure to receive a mailed notice is not a defense to the payment of the total amount due. This section does not apply to special assessments, or rates or charges.

Sec. 6. Section 445.37, unnumbered paragraphs 1, 3, and 4, Code Supplement 2001, are amended to read as follows:

If the semiannual installment of any tax has not been paid before October 1 succeeding the levy, that amount becomes delinquent from October 1 after due, ~~including. However, in those instances when the last day of September is a Saturday or Sunday, that amount becomes delinquent on the second business day of October.~~ If the second installment is not paid before April 1 succeeding its maturity, it becomes delinquent from April 1 after due, ~~including. However, in those instances when the last day of March is a Saturday or Sunday, that amount becomes delinquent on the second business day of April.~~ This paragraph applies to all taxes as defined in section 445.1, subsection 6.

To avoid interest on delinquent taxes, a payment must be received by the treasurer on or before the last business day of the month preceding the delinquent date, or mailed with appropriate postage and applicable fees paid, and a United States postal service postmark affixed to the payment envelope, with the postmark bearing a date preceding the delinquent date. Items returned to the sender by the United States postal service for insufficient postage or applicable fees shall be assessed interest, unless the appropriate postage and fees are paid and the items are postmarked again before the delinquent date. ~~However, if the last calendar day of a month falls on a Saturday, Sunday, or a holiday, that amount becomes delinquent on the second business day of the following month.~~

To avoid interest on current or delinquent taxes, an electronic payment must be ~~received in the treasurer's account initiated by midnight on the first business last~~ day of the delinquency month preceding the delinquent date.

Sec. 7. Section 446.9, subsections 1 and 2, Code 2001, are amended to read as follows:

1. A notice of the date, time, and place of the annual tax sale shall be served upon the person in whose name the parcel subject to sale is taxed. The county treasurer shall serve the notice by sending it by regular first class mail to the person's last known address not later than May 1 of each fiscal year. The notice shall contain a description of the parcel to be sold which is clear, concise, and sufficient to distinguish the parcel to be sold from all other parcels. It shall also contain the amount of delinquent taxes for which the parcel is liable each year, the amount of the interest, fees, and ~~the actual cost of publication of the notice as provided in subsection 2~~ the amount of the service fee as provided in section 446.10, subsection 2, all to be incorporated as a single sum. The notice shall contain a statement that, after the sale, if the parcel is not redeemed within the period provided in chapter 447, the right to redeem expires and a deed may be issued.

2. Publication of the date, time, and place of the annual tax sale shall be made once by the treasurer in at least one official newspaper in the county as selected by the board of supervisors and designated by the treasurer at least one week, but not more than three weeks, before the day of sale. The publication shall contain a description of the parcel to be sold that is clear, concise, and sufficient to distinguish the parcel to be sold from all other parcels. All items offered for sale pursuant to section 446.18 may be indicated by an "s" or by an asterisk. The publication shall also contain the name of the person in whose name the parcel to be sold is taxed,

the amount delinquent for which the parcel is liable each year, the amount of the interest, fees, costs, and the cost of publication in the newspaper service fee as provided in section 446.10, subsection 2, all to be incorporated as a single sum. The publication shall contain a statement that, after the sale, if the parcel is not redeemed within the period provided in chapter 447, the right to redeem expires and a deed may be issued.

Sec. 8. Section 446.9, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 5. If, for good cause, a parcel is not included in the publication specified in subsection 2, notice shall be given by publication or by posting a description of the parcel and the date, time, and place of the tax sale in the treasurer's office for two weeks before the regular or any adjourned tax sale and, at the time of the publication or posting, by mailing the notice required in subsection 1.

Sec. 9. Section 446.10, Code 2001, is amended to read as follows:

446.10 PUBLICATION COSTS AND SERVICE FEES.

1. The compensation for publication shall not exceed four dollars for each separately described parcel and shall be paid by the county.
2. ~~The amount paid~~ A service fee not to exceed four dollars shall be collected as a part of the costs of sale fee for sale notice preparation and deposited into the county general fund. If the taxes are paid before the date of sale, the ~~amount paid for publication~~ service fee shall be included as a part of the costs of collecting the taxes.

Approved March 29, 2002

CHAPTER 1044

PRIVATE INVESTIGATION, PRIVATE SECURITY, AND LOTTERY LICENSING AND REGULATION

H.F. 2249

AN ACT relating to criminal history checks of applicants for certain licenses, lottery employees, and major vendors contracting with the lottery, marketing materials, and the identification of instant lottery tickets, providing for a fee, and providing for an effective date.

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

Section 1. Section 80A.4, Code 2001, is amended to read as follows:

80A.4 LICENSE REQUIREMENTS.

1. Applications for a license or license renewal shall be submitted to the commissioner in the form the commissioner prescribes. A license or license renewal shall not be issued unless the applicant:
 - a. Is eighteen years of age or older.
 - b. Is not a peace officer.
 - c. Has never been convicted of a felony or aggravated misdemeanor.
 - d. Is not addicted to the use of alcohol or a controlled substance.
 - e. Does not have a history of repeated acts of violence.

- f. Is of good moral character and has not been judged guilty of a crime involving moral turpitude.
 - g. Has not been convicted of a crime described in section 708.3, 708.4, 708.5, 708.6, 708.8, or 708.9.
 - h. Has not been convicted of illegally using, carrying or possessing a dangerous weapon.
 - i. Has not been convicted of fraud.
 - j. Provides fingerprints to the department.
 - ~~j.~~ k. Complies with other qualifications and requirements the commissioner adopts by rule.
2. If the applicant is a corporation, the requirements of subsection 1 apply to the president and to each officer, commissioner or employee who is actively involved in the licensed business in Iowa. If the applicant is a partnership or association, the requirements of subsection 1 apply to each partner or association member.
3. Each employee of an applicant or licensee shall possess the same qualifications required by subsection 1 ~~of this section~~ for a licensee.
4. The fingerprints required by subsection 1 may be submitted by the department to the federal bureau of investigation through the state central criminal history repository for the purpose of a national criminal history check.

Sec. 2. Section 80A.5, subsections 1 and 2, Code 2001, are amended to read as follows:

- 1. An applicant for a license or license renewal shall deposit with each application the fee for the license and if necessary the fees associated with processing the fingerprints.
- 2. If the application is approved the deposited amount shall be applied on the license fee. If the application is disapproved, the deposited amount excluding the fees associated with the processing of the fingerprints shall be refunded to the applicant.

Sec. 3. Section 80A.7, subsection 2, Code 2001, is amended to read as follows:

- 2. The fee for each application for an identification card is ten dollars.

Sec. 4. Section 80A.7, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An application for an identification card shall include the submission of fingerprints of the person seeking the identification card which fingerprints may be submitted to the federal bureau of investigation through the state central criminal history repository for the purpose of a national criminal history background check. Fees associated with the processing of fingerprints shall be assessed to the employing licensee.

Sec. 5. Section 99D.8A, subsection 2, Code 2001, is amended to read as follows:

- 2. An applicant shall submit pictures, fingerprints, and descriptions of physical characteristics to the commission in the manner prescribed on the application forms. The fingerprints may be submitted to the federal bureau of investigation by the department of public safety through the state central criminal history repository for the purpose of a national criminal history check.

Sec. 6. Section 99E.3, subsection 3, Code 2001, is amended to read as follows:

- 3. The commissioner may employ, with the approval of the director, clerks, stenographers, inspectors, agents, and other employees pursuant to chapter 19A as necessary to carry out this chapter, except as provided in section 99E.14. The commissioner may require a background investigation to be conducted in connection with the employment of lottery employees. The board shall define, by rule, the employment categories subject to investigation. The background investigation by the division of criminal investigation of the department of public safety may include a national criminal history record check through the federal bureau of investigation. The screening of lottery employees through the federal bureau of investigation shall be conducted by submission of fingerprints through the state criminal history record repository to the federal bureau of investigation.

Sec. 7. Section 99E.9, subsection 2, Code 2001, is amended to read as follows:

2. Subject to the approval of the board, the commissioner may enter into contracts for the operation and marketing of the lottery, except that the board may by rule designate classes of contracts other than major procurements which do not require prior approval by the board. A major procurement shall be as the result of competitive bidding with the contract being awarded to the responsible vendor submitting the lowest and best proposal. However, before a contract for a major procurement is awarded, the division of criminal investigation of the department of public safety shall conduct a thorough background investigation of the vendor, ~~any parent or subsidiary corporation of the vendor, all shareholders of five percent or more interest of the vendor or parent or subsidiary corporation of the vendor, and all officers and directors of the vendor or parent or subsidiary corporation of the vendor to whom the contract is to be awarded.~~ The commissioner and board shall consult with the division of criminal investigation and shall provide, by rule, for the scope of the thorough background investigations and due diligence with regard to the background investigations to be conducted in connection with major procurements. The vendor shall submit to the division of criminal investigation appropriate investigation authorizations to facilitate this investigation. ~~A contract for a major procurement awarded or entered into by the commissioner with an individual or business organization shall require that individual or business organization to establish a permanent office in this state.~~ The background investigation by the division of criminal investigation may include a national criminal history record check through the federal bureau of investigation. The screening of vendors or their employees through the federal bureau of investigation shall be conducted by submission of fingerprints through the state criminal history repository to the federal bureau of investigation. As used in this subsection, "major procurement" means consulting agreements and the major procurement contract with a business organization for the printing of tickets, or for purchase or lease of equipment or services essential to the operation of a lottery game.

Sec. 8. Section 99E.9, subsection 3, paragraph m, Code 2001, is amended to read as follows:

m. The form and type of marketing, informational, and educational material to be permitted. ~~Marketing material and campaigns shall include the concept of investing in Iowa's economic development and show the economic development initiatives funded from lottery revenue.~~

Sec. 9. Section 99E.9, subsection 3, paragraph o, Code 2001, is amended by striking the paragraph.

Sec. 10. Section 99F.6, subsection 2, Code 2001, is amended to read as follows:

2. An applicant shall submit pictures, fingerprints, and descriptions of physical characteristics to the commission in the manner prescribed on the application forms. The fingerprints may be submitted to the federal bureau of investigation by the department of public safety through the state central criminal history repository for the purpose of a national criminal history check.

Sec. 11. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 29, 2002

CHAPTER 1045

LANDSCAPE ARCHITECT LICENSURE

H.F. 2281

AN ACT requiring the licensure of landscape architects.

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

Section 1. Section 544B.1, subsection 2, Code 2001, is amended to read as follows:

2. “Landscape Professional landscape architect” means a person who has obtained a license pursuant to section 544B.2, and who engages in the practice of landscape architecture as defined in this section.

Sec. 2. Section 544B.1, subsection 3, Code 2001, is amended to read as follows:

3. The “practice of landscape architecture” means the performance of professional services such as consultations, investigations, reconnaissance, research, planning, design, or responsible supervision in connection with projects involving the arranging of land and the elements thereon for public and private use and enjoyment, including the alignment of roadways and the location of buildings, service areas, parking areas, walkways, steps, ramps, pools and other structures, and the grading of the land, surface and subsoil drainage, erosion control, planting, reforestation, and the preservation of the natural landscape and aesthetic values, in accordance with accepted professional standards of public health, welfare, and safety. This practice shall include the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes outlined in this chapter but shall not include the design of structures or facilities with separate and self-contained purposes for habitation or industry, or the design of public streets and highways, utilities, storm and sanitary sewers, and sewage treatment facilities, such as are ordinarily included in the practice of engineering or architecture; and shall not include the making of land surveys or final land plats for official approval or recording. ~~Nothing contained in this chapter shall preclude a licensed landscape architect from performing any of the services described in this section in connection with the settings, approaches or environment for buildings, structures or facilities.~~ Nothing contained in this chapter shall be construed as authorizing a professional landscape architect to engage in the practice of architecture, engineering, or land surveying.

Sec. 3. Section 544B.2, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

544B.2 LICENSE REQUIRED.

A person shall not engage in the practice of landscape architecture, or use the title “landscape architect”, “professional landscape architect”, “landscape architecture designer”, or use other titles or words, letters, figures, signs, cards, advertisements, symbols, or other devices to represent that the person or a business associated with the person is authorized to practice landscape architecture, without first obtaining a license as a professional landscape architect from the board pursuant to this chapter. Every holder of a license as a professional landscape architect shall display it in a conspicuous place in the holder’s principal office.

Sec. 4. Section 544B.3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A landscape architectural examining board is created within the professional licensing and regulation division of the department of commerce. The board consists of five members who are ~~registered~~ professional landscape architects and two members who are not ~~registered~~ professional landscape architects and who shall represent the general public. Members shall be appointed by the governor, subject to confirmation by the senate. A ~~registered~~ professional member shall be actively engaged in the practice of landscape architecture or the teaching of landscape architecture in an accredited college or university, and shall have been so engaged

for five years preceding appointment, the last two of which shall have been in Iowa. ~~Professional associations~~ Associations or societies composed of ~~registered professional~~ landscape architects may recommend the names of potential board members to the governor. However, the governor is not bound by the recommendations. A board member shall not be required to be a member of any professional association or society composed of professional landscape architects.

Sec. 5. Section 544B.5, Code 2001, is amended to read as follows:
544B.5 DUTIES.

The board shall enforce this chapter, shall make rules for the examination of applicants for ~~the certificate of registration licensure~~, and, after public notice, shall conduct examinations of applicants for ~~registration licensure~~. The board shall keep a record of its proceedings. The board shall adopt an official seal which shall be affixed to all certificates of ~~registration licensure~~ granted. The board may make other rules, not inconsistent with law, as necessary for the proper performance of its duties. The board shall maintain a roster showing the name, place of business, and residence, and the date and number of the certificate of ~~registration licensure~~ of every ~~registered professional~~ landscape architect in this state. The administrator of the professional licensing and regulation division of the department of commerce shall hire and provide staff to assist the board in implementing this chapter.

Sec. 6. Section 544B.8, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The board shall conduct examinations of applicants for certificates of ~~registration licensure~~ as professional landscape architects at least once each year, or, if there are sufficient applications, at such additional times as the board may deem necessary. The examination shall determine the ability of the applicant to use and understand the theory and practice of landscape architecture and may be divided into such subjects as the board deems necessary. The board shall determine the annual cost of administering the examinations and shall set the fees accordingly. The public members of the board shall be allowed to participate in administrative, clerical, or ministerial functions incident to giving the examination, but shall not determine the content of the examination or determine the correctness of the answers.

Sec. 7. Section 544B.9, Code 2001, is amended to read as follows:
544B.9 APPLICATIONS.

Any person may apply for a certificate of ~~registration licensure~~ or may apply to take an examination for such certification. Applications for ~~registration licensure~~ shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and detail summary of the applicant's pertinent practical landscape architectural work and experience. The board shall not require that a recent photograph of the applicant be attached to the application form. An applicant shall not be ineligible for ~~registration licensure~~ because of age, citizenship, sex, race, religion, marital status, or national origin. The board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of landscape architecture. Character references may be required but shall not be obtained from professional landscape architects. An application for examination shall be accompanied by an examination fee in the amount determined by the board. Each applicant for ~~registration licensure~~ as a professional landscape architect shall meet one of the following requirements:

1. Graduation from a course in landscape architecture in a school, college or university offering an accredited minimum four-year curriculum in landscape architecture, and a minimum of three years of practical experience in landscape architectural work which in the opinion of the board is of satisfactory character, at least one year of which must be under the supervision of a ~~registered professional~~ landscape architect or a person who becomes a ~~registered professional~~ landscape architect within one year after July 1, ~~1975~~ 2002.

2. Graduation from a nonaccredited course of landscape architecture of a minimum of four years in a school, college or university and a minimum of four years of practical experience in landscape architectural work which in the opinion of the board is of satisfactory character, at least one year of which must be under the supervision of a registered professional landscape architect or a person who becomes a registered landscape architect within one year after July 1, 1975.

3. A minimum of ten years of practical experience in landscape architectural work which in the opinion of the board is of satisfactory character to properly prepare the applicant for the examination.

A satisfactorily completed year of study in an accredited course of landscape architecture in an accredited school, college or university may be accepted in lieu of one year of practical experience.

A master's degree from an accredited school, college, or university may be accepted in lieu of one year of practical experience.

Any four-year college or university degree may be accepted in lieu of two years of practical experience.

Sec. 8. Section 544B.10, Code 2001, is amended to read as follows:

544B.10 FOREIGN REGISTRANTS.

Any applicant who holds a license or certificate to practice landscape architecture issued to the applicant upon examination by a board of examiners in any other state, territory, or possession of the United States, the District of Columbia, or of any foreign country, if the requirements for such license or certificate were, at the time it was issued, in the opinion of the board, equal to or higher than the requirements of this state, may be registered licensed without further examination.

Sec. 9. Section 544B.11, Code 2001, is amended to read as follows:

544B.11 REGISTRATION LICENSURE.

When an applicant has complied with the application requirements of this chapter and has passed the examination to the satisfaction of a majority of the registered licensed members of the board, or is a foreign registrant and has qualified for registration licensure under this chapter, and has paid the required registration licensure fee, the secretary shall enroll the applicant's name and address in the roster of registered professional landscape architects and issue to the applicant a certificate of registration licensure, signed by the officers of the board.

Sec. 10. Section 544B.12, Code 2001, is amended to read as follows:

544B.12 SEAL.

Every registered professional landscape architect shall have a seal, approved by the board, which shall contain the name of the landscape architect and the words "Registered Professional Landscape Architect, State of Iowa", and such other words or figures as the board may deem necessary. All landscape architectural plans and specifications, prepared by such professional landscape architect or under the supervision of such professional landscape architect, shall be dated and bear the legible seal of such registered professional landscape architect. Nothing contained in this section shall be construed to permit the seal of a professional landscape architect to serve as a substitute for the seal of a licensed architect, a licensed professional engineer or land surveyor whenever the seal of an architect, engineer or land surveyor is required under the laws of this state.

Sec. 11. Section 544B.13, Code 2001, is amended to read as follows:

544B.13 RENEWALS.

Certificates of registration licensure shall expire in multiyear intervals as determined by the board. Registered Professional landscape architects shall renew their certificates of registra-

~~tion licensure~~ and pay a renewal fee in the manner and amount prescribed by the board. A person who fails to renew a certificate by the expiration date shall be allowed to do so within thirty days following its expiration, but the board may assess a reasonable penalty.

Sec. 12. Section 544B.14, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

The board shall set the fees for a certificate of ~~registration licensure~~ as a ~~registered professional~~ landscape architect, and for renewal of a certificate. The fee for a certificate of ~~registration licensure~~ and for renewal of a certificate shall be based upon the administrative costs of sustaining the board which shall include, but shall not be limited to, the costs for:

Sec. 13. Section 544B.15, Code 2001, is amended to read as follows:

544B.15 SUSPENSION, REVOCATION, OR REPRIMAND.

The board may by a five-sevenths vote of the entire board, suspend for a period not exceeding two years, or revoke the certificate of ~~registration licensure~~ of, or reprimand any ~~registrant licensee~~ who is found guilty of the following acts or offenses:

1. Fraud in procuring a certificate of ~~registration licensure~~.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the ~~registrant's licensee's~~ profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Conviction of a felony related to the profession or occupation of the ~~registrant licensee~~ that would affect the ~~registrant's licensee's~~ ability to practice professional landscape architecture. A copy of the record of conviction or plea of guilty is conclusive evidence.
6. Fraud in representations as to skill or ability.
7. Use of untruthful or improbable statements in advertisements.
8. Willful or repeated violations of the provisions of this ~~Act chapter~~.

Sec. 14. Section 544B.16, Code 2001, is amended to read as follows:

544B.16 PROCEDURE.

A person may file charges with the board against a professional landscape architect or the board may initiate charges. The charges shall be in writing, sworn to if by a complainant other than the board, and filed with the board. Unless the charges are dismissed by the board as unfounded or trivial, the board may request the department of inspections and appeals to conduct an investigation into the charges. The department of inspections and appeals shall report its findings to the board, and the board shall hold a hearing within sixty days after the date on which the charges are filed. The board shall fix the time and place for such hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be served on the accused at least thirty days before the date fixed for the hearing. Where personal service cannot be effected, service may be effected by publication. At such hearing, the accused shall have the right to appear personally or by counsel, to cross-examine witnesses against the accused, and to produce evidence and witnesses in defense. After the hearing, the board may suspend or revoke the certificate of ~~registration licensure~~. The board may restore the certificate of ~~registration licensure~~ to any person whose certificate of ~~registration licensure~~ has been revoked. Application for the restoration of a certificate of ~~registration licensure~~ shall be made in such manner, form and content as the board may prescribe.

Sec. 15. Section 544B.18, Code 2001, is amended to read as follows:

544B.18 UNLAWFUL PRACTICE.

Any person who uses the words "landscape architect", "professional landscape architect", or "landscape architecture designer", or any word or any letters or figures indicating or tend-

ing to imply that the person using the same is a professional landscape architect, without having a valid certificate of ~~registration licensure~~ as a professional landscape architect issued pursuant to this chapter, or who knowingly assists such a person, is guilty of a simple misdemeanor.

Sec. 16. Section 544B.20, subsection 5, Code 2001, is amended to read as follows:

5. To apply to the business conducted in this state by any planner, agriculturist, soil conservationist, horticulturist, tree expert, arborist, forester, nursery or landscape nursery person, gardener, landscape gardener, landscape contractor, garden or lawn caretaker, tiling contractor, grader or cultivator of land, golf course designer or contractor, or similar business. However, such person shall not use the designation landscape architect or any title or device indicating or representing that such person is a professional landscape architect or is practicing landscape architecture unless such person is ~~registered licensed~~ under the provisions of section 544B.11.

Sec. 17. Section 544B.21, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

544B.21 EXAMINATION NOT REQUIRED.

Any person who is registered pursuant to this chapter on the effective date of this Act shall be issued a license to practice as a professional landscape architect.

Approved March 29, 2002

CHAPTER 1046

ABATEMENT OF NUISANCES BY CITIES — ASSESSMENT SCHEDULE

H.F. 2289

AN ACT relating to the preparation and filing of an assessment schedule for abatement of a nuisance by a city.

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

Section 1. Section 384.59, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In the case of the abatement of a nuisance by a city, the city clerk may prepare, sign, and file the assessment schedule and other related documents that would otherwise be required of the engineer.

Approved March 29, 2002

CHAPTER 1047

COMMUNITY COLLEGE FACULTY

H.F. 2394

AN ACT eliminating teacher licensure of community college faculty; requiring community colleges to develop, approve, and implement a quality faculty plan; and providing for related matters and effective dates.

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

Section 1. Section 20.21, unnumbered paragraph 3, Code 2001, is amended to read as follows:

However, the board shall not appoint a fact-finder representative of the public if the public employees represented by a certified employee organization are teachers licensed under chapter 272 and the public employer is a school district, ~~community college~~, or area education agency, or are professional employees and the public employer is a community college. The board shall adopt rules regarding the time period after mediation when binding arbitration procedures must begin for teachers or professional employees exempt from this section.

Sec. 2. Section 232.69, subsection 1, paragraph b, subparagraph (4), Code Supplement 2001, is amended to read as follows:

(4) A licensed school employee, certified para-educator, ~~or~~ holder of a coaching authorization issued under section 272.31, or an instructor employed by a community college.

Sec. 3. Section 257.11, subsection 3, paragraph b, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

If the school budget review committee certifies to the department of management that the class would not otherwise be implemented without the assignment of additional weighting, pupils attending a community college-offered class or attending a class taught by a community college-employed ~~teacher~~ instructor are assigned a weighting of forty-eight hundredths of the percentage of the pupil's school day during which the pupil attends class in the community college or attends a class taught by a community college-employed ~~teacher~~ instructor. The following requirements shall be met for the purposes of assigning an additional weighting for classes offered through a sharing agreement between a school district and community college. The class must be:

Sec. 4. Section 257.11, subsection 3, paragraph b, subparagraph (5), Code Supplement 2001, is amended to read as follows:

(5) Taught by a ~~teacher meeting community college licensing requirements~~ college-employed instructor.

Sec. 5. Section 260C.36, Code 2001, is amended to read as follows:

260C.36 QUALITY FACULTY DEVELOPMENT PLAN.

1. By October 1, 2002, the college administration shall establish a committee consisting of instructors and administrators, equally representative of the arts and sciences faculty and the vocational-technical faculty, which has no more than a simple majority of members of the same gender. The faculty members shall be appointed by the certified employee organization if one exists and if not, by the college administration. The administrators shall be appointed by the college administration. The committee shall develop a plan for hiring and developing quality faculty that includes all of the following:

- a. An implementation schedule for the plan.
- b. Orientation for new faculty.
- c. Continuing professional development for faculty.

- d. Procedures for accurate recordkeeping and documentation for plan monitoring.
 - e. Consortium arrangements when appropriate, cost-effective and mutually beneficial.
 - f. Specific activities that ensure faculty attain and demonstrate instructional competencies and knowledge in their subject or technical areas.
 - g. Procedures for collection and maintenance of records demonstrating that each faculty member has attained or documented progress toward attaining minimal competencies.
 - h. Compliance with the faculty accreditation standards of the north central association of colleges and schools and with faculty standards required under specific programs offered by the community college that are accredited by other accrediting agencies.
2. The committee shall submit the plan to the board of directors, which shall consider the plan and, once approved, submit the plan to the department of education and implement the plan not later than July 1, 2003.
3. Between July 1, 2003, and June 30, 2006, the department of education shall conduct on-site visits to ensure each community college's compliance and progress in implementing its plan. At minimum, the department shall visit five colleges each year until the department has conducted on-site visits at each community college. By July 1, 2006, the department shall submit a report summarizing the department's findings to each community college and to the state accreditation team appointed pursuant to section 260C.47.
4. The administration of the college shall encourage the continued development of faculty potential by doing all of the following:
- (1) a. Regularly stimulating department chairpersons or heads to meet their responsibilities in this regard; (2) lightening for the continued development of faculty potential.
 - b. Reducing the teaching instructional loads of first-year instructors whose course preparation and in-service training demand it; (3) stimulating a reduction.
 - c. Stimulating curricular evaluation; and (4) encouraging.
 - d. Encouraging the development of an atmosphere in which the faculty brings a wide range of ideas and experiences to the students, each other, and the community.

Sec. 6. Section 260C.47, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The state board of education shall establish an accreditation process for community college programs by July 1, 1997. The process shall be jointly developed and agreed upon by the department of education and the community colleges. The state accreditation process shall be integrated with the accreditation process of the north central association of colleges and schools, including the evaluation cycle, the self-study process, and the criteria for evaluation, which shall incorporate the standards for community colleges developed under section 260C.48; and shall identify and make provision for the needs of the state that are not met by the association's accreditation process. For the academic year commencing July 1, 1998, and in succeeding school years, the department of education shall use a two-component process for the continued accreditation of community college programs. Beginning July 1, 2006, the state accreditation process shall incorporate the standards developed pursuant to section 260C.48, subsection 4.

Sec. 7. Section 260C.47, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. The second component consists of the use of an accreditation team appointed by the director of the department of education, to conduct an evaluation, including an on-site visit of each community college, with a comprehensive evaluation to occur during the same year as the evaluation by the north central association of colleges and schools, and an interim evaluation midway between comprehensive evaluations. The number and composition of the accreditation team shall be determined by the director, but the team shall include members of the department of education staff and community college staff members from community colleges other than the community college that conducts the programs being evaluated for ac-

creditation. Beginning July 1, 2006, the accreditation team shall monitor the quality faculty plan implemented by each community college pursuant to section 260C.36.

Sec. 8. Section 260C.48, subsection 1, Code 2001, is amended to read as follows:

1. The state board shall develop standards and rules for the accreditation of community college programs. Standards Except as provided in this subsection and subsection 4, standards developed shall be general in nature so as to apply to more than one specific program of instruction. With regard to community college-employed instructors, the standards adopted shall at a minimum require that full-time community college instructors meet the following requirements:

a. Instructors in the subject area of career and technical education shall be registered, certified, or licensed in the occupational area in which the state requires registration, certification, or licensure, and shall hold the appropriate registration, certificate, or license for the occupational area in which the instructor is teaching, and shall meet either of the following qualifications:

(1) A baccalaureate or graduate degree in the area or a related area of study or occupational area in which the instructor is teaching classes.

(2) Special training and at least six thousand hours of recent and relevant work experience in the occupational area or related occupational area in which the instructor teaches classes if the instructor possesses less than a baccalaureate degree.

b. Instructors in the subject area of arts and sciences shall meet either of the following qualifications:

(1) Possess a master's degree from a regionally accredited graduate school, and has successfully completed a minimum of twelve credit hours of graduate level courses in each field of instruction in which the instructor is teaching classes.

(2) Has two or more years of successful experience in a professional field or area in which the instructor is teaching classes and in which postbaccalaureate recognition or professional licensure is necessary for practice, including but not limited to the fields or areas of accounting, engineering, law, law enforcement, and medicine.

Sec. 9. Section 260C.48, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Commencing July 1, 2006, standards relating to quality assurance of faculty and ongoing quality professional development shall be the accreditation standards of the north central association of colleges and schools and the faculty standards required under specific programs offered by the community college that are accredited by other accrediting agencies.

Sec. 10. Section 272.1, subsection 11, Code 2001, is amended to read as follows:

11. "School" means a school under section 280.2, ~~a community college~~, an area education agency, and a school operated by a state agency for special purposes.

Sec. 11. Section 272.3, subsection 5, Code 2001, is amended by striking the subsection.

Sec. 12. Section 272.33, unnumbered paragraph 1, Code 2001,¹ is amended to read as follows:

In addition to licenses required under rules adopted pursuant to this chapter, an individual employed as an administrator, supervisor, school service person, or teacher by a school district, ~~or area education agency, or community college~~, who conducts evaluations of the performance of individuals holding licenses under this chapter, shall possess an evaluator license or an evaluator endorsement appearing on a teaching or administrative license. ~~Individuals employed in community colleges who do not directly supervise licensed teaching faculty are exempt from this section.~~

¹ Code Supplement 2001 probably intended

Sec. 13. Section 279.12, unnumbered paragraph 3, Code 2001, is amended to read as follows:

The board may approve a policy for educational leave for licensed school employees and for reimbursement for tuition paid by licensed school employees for courses approved by the board. The board of directors of a community college may approve a policy for educational leave for its instructors and for reimbursement for tuition paid by its instructors for courses approved by the board. For the purpose of this section, “educational leave” means a leave granted to an employee for the purpose of study including study in areas outside of a teacher’s area of specialization, travel, or other reasons deemed by the board to be of value to the school system.

Sec. 14. Section 279.13, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. For purposes of this section, sections 279.14, 279.15 through 279.17, and 279.27, unless the context otherwise requires, “teacher” includes an instructor employed by a community college.

Sec. 15. Section 279.18, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, unless the context otherwise requires, “rejecting party” shall include, but not be limited to, an instructor employed by a community college.

Sec. 16. Section 279.19A, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 10. The licensure requirements of subsections 3, 4, and 9 shall not apply to community colleges.

Sec. 17. Section 279.19B, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section shall not apply to community colleges.

Sec. 18. Section 279.55, Code 2001, is amended to read as follows:
279.55 TEACHER EXCHANGE PROGRAM.

If funds are appropriated by the general assembly, an Iowa teacher exchange program is established to permit school districts to exchange licensed instructional personnel with other districts in order to promote the exchange and enhancement of instructional methods and materials and encourage the educational development of Iowa’s teachers. Community colleges may exchange their instructional personnel only with other community colleges under this program.

Sec. 19. VALIDITY OF LICENSE. Notwithstanding section 272.7, a license issued by the board of educational examiners to an instructor employed by a community college, which is due to expire at any time between the effective date of this section of this Act and July 1, 2003, shall remain valid until July 1, 2003.

Sec. 20. EFFECTIVE DATE. Sections 1 through 4 and sections 6 through 18 of this Act take effect July 1, 2003.

Sec. 21. Section 19 of this Act, relating to the validity of a license, being deemed of immediate importance, takes effect upon enactment.

Approved March 29, 2002

CHAPTER 1048**ELECTRIC TRANSMISSION LINE FRANCHISES**

S.F. 2086

AN ACT relating to the kilowatt¹ threshold for electric transmission line franchises, making related changes, and providing an effective date.

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

Section 1. Section 478.1, Code 2001, is amended to read as follows:

478.1 FRANCHISE.

1. A person shall not construct, erect, maintain, or operate a transmission line, wire, or cable ~~which that~~ is capable of operating at an electric voltage of ~~thirty-four and one-half~~ sixty-nine kilovolts or more along, over, or across any public highway or grounds outside of cities for the transmission, distribution, or sale of electric current, without first procuring from the utilities board within the utilities division of the department of commerce a franchise granting authority as provided in this chapter. ~~However, a~~

2. A franchise shall not be required for electric lines constructed entirely within the boundaries of property owned by a person primarily engaged in the transmission or distribution of electric power or entirely within the boundaries of property owned by the end user of the electric power.

3. If the transmission line, wire, or cable is capable of operating only at an electric voltage of less than ~~thirty-four and one-half~~ sixty-nine kilovolts, no franchise is required. However, the utilities board shall retain jurisdiction over all such lines, wires, or cables.

4. A person who seeks to construct, erect, maintain, or operate a transmission line, wire, or cable ~~which that~~ will operate at an electric voltage of less than ~~thirty-four and one-half~~ sixty-nine kilovolts outside of cities and ~~which that~~ cannot secure the necessary voluntary easements to do so may petition the board pursuant to section 478.3, subsection 1, for a franchise granting authority for such construction, erection, maintenance, or operation, and for the use of the right of eminent domain.

Sec. 2. Section 478.2, Code 2001, is amended to read as follows:

478.2 PETITION FOR FRANCHISE — INFORMATIONAL MEETINGS HELD.

1. Any person, ~~corporation, or company~~ authorized to transact business in the state including cities may file a verified petition asking for a franchise to erect, maintain, and operate a line or lines for the transmission, distribution, use, and sale of electric current outside cities and for such purpose to erect, use, and maintain poles, wires, guy wires, towers, cables, conduits, and other fixtures and appliances necessary for conducting electric current for light, heat, or power over, along, and across any public lands, highways, streams, or the lands of any person, company, or corporation, and to acquire necessary interests in real estate for such purposes.

2. As conditions precedent to the filing of a petition with the utilities board requesting a franchise for a new transmission line, and not less than thirty days prior to the filing of such petition, the person, ~~company, or corporation~~ shall hold informational meetings in each county in which real property or rights ~~therein~~ will be affected.

a. A member of the board, the counsel of the board, or a hearing examiner designated by the board shall serve as the presiding officer at each meeting, shall present an agenda for such meeting which shall include a summary of the legal rights of the affected landowners, and shall distribute and review the statement of individual rights required under section 6B.2A, subsection 1. A formal record of the meeting shall not be required.

b. The meeting shall be held at a location reasonably accessible to all persons, ~~companies, or corporations~~ ~~which that~~ may be affected by the granting of the franchise.

3. The person, ~~company, or corporation~~ seeking the franchise for a new transmission line

¹ "Kilovolt" probably intended

shall give notice of the informational meeting to each person, company, or corporation determined to be the landowner affected by the proposed project and any person, company, or corporation in possession of or residing on the property.

a. For the purposes of this section, "~~landowner~~" unless the context otherwise requires:

(1) "~~Landowner~~" means a person, ~~company, or corporation~~ listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and ~~"transmission.~~

(2) "~~Transmission~~ line" means any line capable of operating at ~~thirty-four and one-half sixty-nine~~ kilovolts or more and extending a distance of not less than one mile across privately owned real estate.

b. The notice shall ~~set forth~~ contain the following:

(1) ~~The~~ name of the applicant; ~~state the.~~

(2) ~~The~~ applicant's principal place of business; ~~state the.~~

(3) ~~A~~ general description and purpose of the proposed project; ~~state the.~~

(4) ~~The~~ general nature of the right-of-way desired; ~~state the.~~

(5) ~~The~~ possibility that the right-of-way may be acquired by condemnation if approved by the utilities board; ~~provide a.~~

(6) ~~A~~ map showing the route of the proposed project; ~~provide a.~~

(7) ~~A~~ description of the process used by the utilities board in making a decision on whether to approve a franchise or grant the right to take property by eminent domain; ~~advise.~~

(8) ~~A statement~~ that the landowner has the right to be present at such meetings and to file objections with the utilities board; ~~designate the.~~

(9) ~~The~~ place and time of the meeting; ~~;~~

c. ~~The notice shall~~ be served not less than thirty days prior to the time set for the meeting by certified mail with return receipt requested; and ~~shall~~ be published once in a newspaper of general circulation in the county at least one week and not more than three weeks before the time of the meeting and such publication shall be considered notice to landowners whose residence is not known.

4. ~~No A~~ person, ~~company, or corporation~~ seeking rights under this chapter shall not negotiate or purchase any easements or other interests in land in any county known to be affected by the proposed project prior to the informational meeting.

Sec. 3. Section 478.3, subsection 2, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

Petitions for transmission lines capable of operating at ~~thirty-four and one-half sixty-nine~~ kilovolts or more and extending a distance of not less than one mile across privately owned real estate shall also set forth an allegation that the proposed construction represents a reasonable relationship to an overall plan of transmitting electricity in the public interest and substantiation of such allegations, including but not limited to, a showing of the following:

Sec. 4. Section 478.13, unnumbered paragraph 2, Code 2001, is amended to read as follows:

An extension of a franchise is not required for an electric transmission line ~~which that~~ has been permanently retired from operation at ~~thirty-four and one-half sixty-nine~~ kilovolts or more but which remains in service at a lower voltage. The board shall be notified of changes in operating status.

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

Approved April 1, 2002

CHAPTER 1049**CRIMINAL MISCHIEF AND UNAUTHORIZED COMPUTER ACCESS***S.F. 2098*

AN ACT relating to the criminal offenses of unauthorized computer access and criminal mischief, and providing a penalty.

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

Section 1. Section 716.1, Code 2001, is amended to read as follows:

716.1 CRIMINAL MISCHIEF DEFINED.

Any damage, defacing, alteration, or destruction of tangible property is criminal mischief when done intentionally by one who has no right to so act.

Sec. 2. Section 716.6B, Code 2001, is amended to read as follows:

716.6B UNAUTHORIZED COMPUTER ACCESS.

1. A person who knowingly and without authorization accesses a computer, computer system, or computer network commits a simple misdemeanor the following:

a. An aggravated misdemeanor if computer data is accessed that contains a confidential record, as defined in section 22.7, operational or support data of a public utility, as defined in section 476.1, operational or support data of a public airport, or a trade secret, as defined in section 550.2.

b. A serious misdemeanor if computer data is copied, altered, or deleted.

c. A simple misdemeanor for any access which is not an aggravated or serious misdemeanor.

2. The prosecuting attorney or an aggrieved person may institute civil proceedings against any person in district court seeking relief from conduct constituting a violation of this section or to prevent, restrain, or remedy such a violation.

Approved April 1, 2002

CHAPTER 1050**NONSUBSTANTIVE CODE CORRECTIONS***S.F. 2201*

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 7E.5, subsection 1, paragraph h, Code 2001, is amended to read as follows:

h. The Iowa department of economic development, created in section 15.104 15.105, which has primary responsibility for programs for carrying out the economic development policies of the state.

Sec. 2. Section 10B.1, subsection 2, Code 2001, is amended to read as follows:

2. "Cooperative association" means any entity organized 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; or a cooperative ~~corporation~~ organized under chapter 501.

Sec. 3. Section 15A.7, subsection 3, Code 2001, is amended to read as follows:

3. That the employer shall agree to pay wages for the jobs for which the credit is taken of at least the average county wage or average regional wage, whichever is lower, as compiled annually by the department of economic development for the community economic betterment program. For the purposes of this section, the average regional wage shall be compiled based upon the service delivery areas in section 84B.2. Eligibility for the supplemental credit shall be based on a one-time determination of starting wages by the community college.

Sec. 4. Section 15A.9, subsection 10, Code Supplement 2001, is amended to read as follows:

10. LIMITATION ON ASSISTANCE. Economic development assistance under subsections 3 through 9 shall only be available to the primary business or a supporting business. However, if the department of economic development finds that a primary business or a supporting 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 primary business or supporting business shall not qualify for economic development assistance under subsections 3 through 9, unless the department of economic development 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 a primary business or a supporting business is eligible for economic development assistance under subsections 3 through 9, the department of economic development shall be exempt from chapter 17A.

Sec. 5. Section 15E.111, subsection 8, Code 2001, is amended to read as follows:

8. The department of economic development and the office of renewable fuels and coproducts shall prepare a report each six months detailing the progress of the department and other agencies provided in this section. The office of renewable fuels and coproducts, the department of natural resources, and Iowa state university may contribute a summary of their activities. The report shall be delivered to the secretary of the senate and the chief clerk of the house; the legislative service bureau; the chairpersons and ranking members of the senate standing committee on agriculture; the senate standing committee on small business, economic development, and tourism; the house of representatives standing committee on agriculture; and the house of representatives standing committee on ~~small business, economic development, and trade~~.

Sec. 6. Section 15E.117, Code 2001, is amended to read as follows:

15E.117 PROMOTION OF IOWA WINE AND BEER.

The department of economic development shall consult with the Iowa wine and beer promotion board on the best means to promote wine and beer made in Iowa. The department has the authority to contract with private persons for the promotion of beer and wine made in Iowa. At the direction of the department, the director of revenue and finance shall issue warrants to the department of economic development on the barrel tax fund created in section 123.143 and the wine gallonage tax fund created in section 123.183, which moneys may be used by the department for the purpose of this section, including administrative expenses incurred under this section.

Sec. 7. Section 15E.202, subsection 17, paragraph b, Code 2001, is amended to read as follows:

b. A cooperative ~~corporation~~ organized under chapter 501.

Sec. 8. Section 73.10, Code 2001, is amended to read as follows:

73.10 EXCEPTIONS.

The provisions of sections 73.6 to and 73.9 shall not apply to municipally owned and operated public utilities.

Sec. 9. Section 84A.1, subsections 2 and 3, Code 2001, are amended to read as follows:

2. The chief executive officer of the department of workforce development is the director who shall be appointed by the governor, subject to confirmation by the senate under the confirmation procedures of section 2.32. The director of the department of workforce development shall serve at the pleasure of the governor. The governor shall set the salary of the director within the applicable salary range established by the general assembly. The director shall be selected solely on the ability to administer the duties and functions granted to the director and the department and shall devote full time to the duties of the director. If the office of director becomes vacant, the vacancy shall be filled in the same manner as the original appointment was made.

The director of the department of workforce development shall, subject to the requirements of section 84A.1B, prepare, administer, and control the budget of the department and its divisions and shall approve the employment of all personnel of the department and its divisions.

The director of the department of workforce development shall direct the administrative and compliance functions and control the docket of the division of workers' compensation.

3. The department of workforce development shall include the division of labor services, the division of workers' compensation, and other divisions as appropriate.

Sec. 10. Section 84A.1A, Code Supplement 2001, is amended to read as follows:

84A.1A WORKFORCE DEVELOPMENT BOARD.

1. An Iowa workforce development board is created, consisting of nine voting members appointed by the governor and eight ex officio nonvoting members. The ex officio nonvoting members are four legislative members; one president or the president's designee of the university of northern Iowa, the university of Iowa, or Iowa state university of science and technology, designated by the state board of regents on a rotating basis; one representative from the largest statewide public employees' organization representing state employees; one president or the president's designee of an independent Iowa college, appointed by the Iowa association of independent colleges and universities; and one superintendent or the superintendent's designee of a community college, appointed by the Iowa association of community college presidents. The legislative members are two state senators, one appointed by the president of the senate, after consultation with the majority leader of the senate, and one appointed by the minority leader of the senate, after consultation with the president of the senate, from their respective parties; and two state representatives, appointed by the speaker after consultation with the majority and minority leaders of the house of representatives from their respective parties. Not more than five of the voting members shall be from the same political party. Of the nine voting members, one member shall represent a nonprofit organization involved in workforce development services, four members shall represent employers, and four members shall represent nonsupervisory employees. Of the members appointed by the governor to represent nonsupervisory employees, two members shall be from statewide labor organizations, one member shall be an employee representative of a labor management council, and one member shall be a person with experience in worker training programs. The governor shall consider recommendations from statewide labor organizations for the members representing nonsupervisory employees. The governor shall appoint the nine voting members of the workforce development board for a term of four years beginning and ending as provided by section 69.19, subject to confirmation by the senate, and the governor's appointments shall include persons knowledgeable in the area of workforce development.

2. A vacancy on the workforce development board shall be filled in the same manner as regular appointments are made for the unexpired portion of the regular term.

3. The workforce development board shall meet in May of each year for the purpose of elect-

ing one of its voting members as chairperson and one of its voting members as vice chairperson. However, the chairperson and the vice chairperson shall not be from the same political party. The workforce development board shall meet at the call of the chairperson or when any five members of the workforce development board file a written request with the chairperson for a meeting. Written notice of the time and place of each meeting shall be given to each member of the workforce development board. A majority of the voting members constitutes a quorum.

4. Members of the workforce development board, the director of the department of workforce development, 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 of workforce development is subject to the budget requirements of chapter 8. Each member of the workforce development board may also be eligible to receive compensation as provided in section 7E.6.

5. If a member of the workforce development board has an interest, either direct or indirect, in a contract to which the department of workforce development is or is to be a party, the interest shall be disclosed to the workforce development board in writing and shall be set forth in the minutes of a meeting of the workforce development board. The member having the interest shall not participate in action by the workforce development board with respect to the contract. This subsection does not limit the right of a member of the workforce development board to acquire an interest in bonds, or limit the right of a member to have an interest in a bank or other financial institution in which the funds of the department of workforce development are deposited or which is acting as trustee or paying agent under a trust indenture to which the department of workforce development is a party.

Sec. 11. Section 84A.5, Code Supplement 2001, is amended to read as follows:

84A.5 DEPARTMENT'S DEPARTMENT OF WORKFORCE DEVELOPMENT — PRIMARY RESPONSIBILITIES.

The department of workforce development, in consultation with the workforce development board and the regional advisory boards, has the primary responsibilities set out in this section.

1. The department of workforce development shall develop and implement a workforce development system which increases the skills of the Iowa workforce, fosters economic growth and the creation of new high skill and high wage jobs through job placement and training services, increases the competitiveness of Iowa businesses by promoting high performance workplaces, and encourages investment in workers.

The workforce development system shall strive to provide high quality services to its customers including workers, families, and businesses. The department of workforce development shall maintain a common intake, assessment, and customer tracking system and to the extent practical provide one-stop services to customers at workforce development centers and other service access points.

The system shall include an accountability system to measure program performance, identify accomplishments, and evaluate programs to ensure goals and standards are met. The accountability system shall use information obtained from the customer tracking system, the department of economic development, the department of education, and training providers to evaluate the effectiveness of programs. The department of economic development, the department of education, and training providers shall report information concerning the use of any state or federal training or retraining funds to the department of workforce development in a form as required by the department of workforce development. The accountability system shall evaluate all of the following:

- a. The impact of services on wages earned by individuals.
- b. The effectiveness of training services providers in raising the skills of the Iowa workforce.
- c. The impact of placement and training services on Iowa's families, communities, and economy.

The department of workforce development shall make information from the customer track-

ing and accountability system available to the department of economic development, the department of education, and other appropriate public agencies for the purpose of assisting with the evaluation of programs administered by those departments and agencies and for planning and researching public policies relating to education and economic development.

2. The department of workforce development is responsible for administration of unemployment compensation benefits and collection of employer contributions under chapter 96, providing for the delivery of free public employment services established pursuant to chapter 96, other job placement and training programs established pursuant to section 84A.6, and the delivery of services located throughout the state.

3. The division of labor services is responsible for the administration of the laws of this state under chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 92, and 94A, and sections 30.7 and 85.68. The executive head of the division is the labor commissioner, appointed pursuant to section 91.2.

4. The division of workers' compensation is responsible for the administration of the laws of this state relating to workers' compensation under chapters 85, 85A, 85B, 86, and 87. The executive head of the division is the workers' compensation commissioner, appointed pursuant to section 86.1.

5. The director of the department of workforce development shall form a coordinating committee composed of the director of the department of workforce development, the labor commissioner, the workers' compensation commissioner, and other administrators. The committee shall monitor federal compliance issues relating to coordination of functions among the divisions.

6. The department of workforce development shall administer the following programs:

- a. The Iowa conservation corps established under section 84A.7.
- b. The workforce investment program established under section 84A.8.
- c. The statewide mentoring program established under section 84A.9.
- d. The workforce development centers established under chapter 84B.

7. The department of workforce development shall work with the department of economic development to incorporate workforce development as a component of community-based economic development.

8. The department of workforce development, in consultation with the applicable regional advisory board, shall select service providers, subject to approval by the workforce development board for each service delivery area. A service provider in each service delivery area shall be identified to coordinate the services throughout the service delivery area. The department of workforce development shall select service providers that, to the extent possible, meet or have the ability to meet the following criteria:

- a. The capacity to deliver services uniformly throughout the service delivery area.
- b. The experience to provide workforce development services.
- c. The capacity to cooperate with other public and private agencies and entities in the delivery of education, workforce training, retraining, and workforce development services throughout the service delivery area.
- d. The demonstrated capacity to understand and comply with all applicable state and federal laws, rules, ordinances, regulations, and orders, including fiscal requirements.

9. The department of workforce development shall provide access to information and documents necessary for employers and payors of income, as defined in sections 252D.16 and 252G.1, to comply with child support reporting and payment requirements. Access to the information and documents shall be provided at the central location of the department of workforce development and at each workforce development center.

10. The director of the department of workforce development may adopt rules pursuant to chapter 17A to charge and collect fees for enhanced or value-added services provided by the department of workforce development which are not required by law to be provided by the department and are not generally available from the department of workforce development. Fees shall not be charged to provide a free public labor exchange. Fees established by the director of the department of workforce development shall be based upon the costs of adminis-

tering the service, with due regard to the anticipated time spent, and travel costs incurred, by personnel performing the service. The collection of fees authorized by this subsection shall be treated as repayment receipts as defined in section 8.2.

Sec. 12. Section 84A.6, subsections 2 and 3, Code 2001, are amended to read as follows:

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

3. The director of the department of workforce development, in cooperation with the department of human rights and the vocational rehabilitation services division of the department of education, shall establish a program to provide job placement and training to persons with disabilities.

Sec. 13. Section 84A.7, subsections 3 and 4, Code 2001, are amended to read as follows:

3. FUNDING. Corps projects shall be funded by appropriations to the Iowa conservation corps account and by cash, services, and material contributions made by other state agencies or local public and private agencies. Public and private entities who benefit from a corps project shall contribute at least thirty-five percent of the total project budget. The contributions may be in the form of cash, materials, or services. Materials and services shall be intended for the project and acceptable to the department of workforce development. Minimum levels of contributions shall be prescribed in rules adopted by the department of workforce development.

4. ACCOUNT CREATED. The Iowa conservation corps account is established within and administered by the department of workforce development. The account shall include all appropriations made to programs administered by the corps, and may also include moneys contributed by a private individual or organization, or a public entity for the purpose of implementing corps programs and projects. The department of workforce development may establish an escrow account within the department and obligate moneys within that escrow account for tuition payments to be made beyond the term of any fiscal year. Interest earned on moneys in the Iowa conservation corps account shall be credited to the account.

Sec. 14. Section 85.38, subsection 4, Code 2001, is amended to read as follows:

4. LIEN FOR HOSPITAL AND MEDICAL SERVICES UNDER CHAPTER 249A. In the event any hospital or medical services as defined provided in section 85.27 are paid by the state department of human services on behalf of an employee who is entitled to such benefits under the provisions of this chapter or chapter 85A or 85B, a lien shall exist as respects the right of such employee to benefits as described in section 85.27.

Sec. 15. Section 123.183, subsection 3, paragraph b, Code Supplement 2001, is amended to read as follows:

b. The remaining 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 in the beer and liquor control fund created in section 123.53.

Sec. 16. Section 135.83, Code Supplement 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 Iowa 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 eriterion

criteria 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. 17. Section 135C.2, subsection 3, paragraph d, Code Supplement 2001, is amended to read as follows:

d. Notwithstanding the limitations set out in this subsection regarding rules for intermediate care facilities for persons with mental retardation, the department shall consider the federal interpretive guidelines issued by the federal ~~health care financing administration centers for Medicare and Medicaid services~~ when interpreting the department's rules for intermediate care facilities for persons with mental retardation. This use of the guidelines is not subject to the rulemaking provisions of sections 17A.4 and 17A.5, but the guidelines shall be published in the Iowa administrative bulletin and the Iowa administrative code.

Sec. 18. Section 135C.33, subsection 2, Code Supplement 2001, is amended to read as follows:

2. If the department of public safety determines that a person has committed a crime 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 abuse records check ~~determines~~ shows that 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. 19. Section 136.3, subsection 7, Code Supplement 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 state board of health.

Sec. 20. Section 207.13, subsection 2, Code 2001, is amended to read as follows:

2. The inspections by the division shall:
- a. ~~One~~ Occur at a frequency of one complete inspection per calendar quarter and at least one partial inspection on an irregular basis in those months where a complete inspection is not performed.
 - b. Occur without prior notice to the permittee, agents or employees except for necessary on-site meetings with the permittee.
 - c. Include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this chapter.

Sec. 21. Section 229.42, Code Supplement 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 department of human services and

credited to the general fund of the state, ~~providing~~ provided that 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 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 receiving mental health services either away from or at the institution ~~receiving mental health services~~.

If a county fails to pay the billed charges within forty-five days from the date the county auditor received the certification statement from the superintendent, the 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 certification statement until paid. The penalties received shall be credited to the general fund of the state.

Sec. 22. Section 232.21, subsection 4, Code Supplement 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 determination, supported by the record, may be used by the department to assist the department in obtaining federal funding for the child's placement.

Sec. 23. Section 232.111, subsection 2, paragraph a, subparagraph (3), Code Supplement 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~~ have been abandoned or the child is a newborn infant whose parent has voluntarily released custody of the child in accordance with chapter 233.

Sec. 24. Section 249A.19, Code 2001, is amended to read as follows:

249A.19 HEALTH CARE FACILITIES — PENALTY.

The department shall adopt rules pursuant to chapter 17A to assess and collect, with interest, a civil penalty for each day a health care facility which receives medical assistance reimbursements does not comply with the requirements of the federal Social Security Act, section 1919, as codified in 42 U.S.C. § 1396r. A civil penalty shall not exceed the amount authorized under 42 C.F.R. § 488.438 for health care facility violations. Any moneys collected by the department pursuant to this section shall be applied to the protection of the health or property of the residents of the health care facilities which are determined by the state or by the federal ~~health care financing administration~~ centers for Medicare and Medicaid services to be out of compliance. The purposes for which the collected moneys shall be applied may include payment for the costs of relocation of residents to other facilities, maintenance or operation of a health care facility pending correction of deficiencies or closure of the facility, and reimbursing residents for personal funds lost. If a health care facility is assessed a civil penalty under this section, the health care facility shall not be assessed a penalty under section 135C.36 for the same violation.

Sec. 25. Section 249A.27, subsection 2, Code 2001, is amended to read as follows:

2. If the department is the case management contractor, the state shall be responsible for any costs included within the unit rate for case management services which are disallowed for medical assistance reimbursement by the federal ~~health care financing administration centers for Medicare and Medicaid services~~. The contracting county shall be credited for the county's share of any amounts overpaid due to the disallowed costs. However, if certain costs are disallowed due to requirements or preferences of a particular county in the provision of case management services, the county shall not receive credit for the amount of the costs.

Sec. 26. Section 249H.4, subsection 4, Code 2001, is amended to read as follows:

4. The trust fund shall be operated in accordance with the guidelines of the ~~health care financing administration centers for Medicare and Medicaid services~~ of the United States department of health and human services. The trust fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the trust fund shall not be considered revenue of the state, but rather shall be funds of the senior living program. The moneys in the trust fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this chapter.² Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the trust fund shall be credited to the trust fund.

Sec. 27. Section 249H.8, subsection 1, Code 2001, is amended to read as follows:

1. A person operating a PACE program shall have a PACE program agreement with the ~~health care financing administration centers for Medicare and Medicaid services~~ of the United States department of health and human services, shall enter into a contract with the department of human services, and shall comply with 42 U.S.C. § 1396(u)(4) and all regulations promulgated pursuant to that section.

Sec. 28. Section 263.9, Code Supplement 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~~ hospitals and clinics, a center for disabilities and development having as its objects the education and treatment of children with severe disabilities. 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. 29. Section 263.10, Code Supplement 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 university of Iowa hospitals and clinics center for disabilities and development, and nonresidents similarly situated may be entitled to an education and care 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 center upon such terms as may be agreed upon by the state board of regents and the director.

Sec. 30. Section 263.13, Code Supplement 2001, is amended to read as follows:

263.13 GIFTS ACCEPTED.

The state board of regents is authorized to accept, for the benefit of the university hospitals and clinics center for disabilities and development, gifts, devises, or bequests of property, real

² See 2002 Iowa Acts, Second Extraordinary Session, chapter 1001, §30, 52 herein

or personal including grants from the federal government. 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 the center as provided in this division.

Sec. 31. Section 317.25, Code Supplement 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~~ *Rosa* multiflora), purple loosestrife (~~lythrum~~ *Lythrum* salicaria), purple loosestrife (~~lythrum~~ *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~~ *Rosa* multiflora) used for understock for either cultivated roses or ornamental shrubs in gardens. Any person violating the provisions of this section is subject to a fine of not exceeding one hundred dollars.

Sec. 32. Section 321.20B, subsection 4, paragraph b, subparagraph (2), subparagraph subdivisions (a) and (b), Code Supplement 2001, are amended to read as follows:

(a) Sign an admission of violation on the citation and remit to the clerk of court a scheduled fine as provided in section ~~805.8~~ *805.8A*, subsection 2 ~~14~~, paragraph “f”, for a violation of subsection 1. Upon payment of the fine to the clerk of court of the county where the citation was issued, payment of a fifteen dollar administrative fee to the county treasurer of the county in which the motor vehicle is registered, and providing proof of payment of any applicable fine and proof of financial liability coverages to the county treasurer of the county in which the motor vehicle is registered, the treasurer shall issue new license plates and registration to the owner.

(b) Request an appearance before the court on the matter. If the matter goes before the court, and the owner or driver is found guilty of a violation of subsection 1, the court may impose a fine as provided in section ~~805.8~~ *805.8A*, subsection 2 ~~14~~, paragraph “f”, for a violation of subsection 1, or the court may order the person to perform unpaid community service instead of the fine. Upon the payment of the fine or the entry of the order for unpaid community service, the person shall provide proof of payment or entry of such order and the county treasurer of the county in which the motor vehicle is registered shall issue new license plates and registration to the owner upon the owner providing proof of financial liability coverage and paying a fifteen dollar administrative fee to the county treasurer.

Sec. 33. Section 321.215, subsection 2, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

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~~ over the residence of the person for a temporary restricted 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:

Sec. 34. Section 321L.3, unnumbered paragraph 3, Code Supplement 2001, is amended to read as follows:

Persons with disabilities parking permits may be returned to the department as required by this section either directly to the department, to a driver's license station, or to any law enforcement office.

Sec. 35. Section 422.11C, subsection 1, paragraph b, Code Supplement 2001, is amended to read as follows:

b. "Gasoline" means gasoline that meets the specifications required by the department of agriculture and land stewardship pursuant to section 214A.2 and that is dispensed through a metered pump.

Sec. 36. Section 426B.5, subsection 1, paragraph c, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

Moneys available in the per capita expenditure pool for a fiscal year shall be distributed to those counties ~~who~~ that meet all of the following eligibility requirements:

Sec. 37. Section 437A.15, subsection 3, paragraph c, Code Supplement 2001, is amended to read as follows:

c. If paragraph "b" is applicable, on or before 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~~ be paid to the generation and transmission electric cooperative. On or before 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.

Sec. 38. Section 450.4, subsection 4, Code Supplement 2001, is amended to read as follows:

4. ~~Bequests~~ On bequests for the care and maintenance of the cemetery or burial lot of the decedent or the decedent's family, and bequests not to exceed five hundred dollars in any estate of a decedent for the performance of a religious service or services by some person regularly ordained, authorized, or licensed by some religious society to perform such service, which service or services are to be performed for or in behalf of the testator or some person named in the testator's last will.

Sec. 39. Section 452A.2, subsection 18, paragraphs a and b, Code Supplement 2001, are 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~~ the products' classifications or uses, and including transmix which serves as a buffer between fuel products in the pipeline distribution process.

b. Any liquid advertised, offered for sale, sold for use as, or commonly or commercially used as a fuel for propelling motor vehicles which, when subjected to distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society of Testing Materials Designation society for testing and materials designation D-86), shows not less than ten per centum distilled (recovered) below three hundred forty-seven degrees Fahrenheit (one hundred seventy-five degrees Centigrade) and not less than ninety-five per centum distilled (recovered) below four hundred sixty-four degrees Fahrenheit (two hundred forty degrees Centigrade).

Sec. 40. Section 452A.2, subsection 20, Code Supplement 2001, is amended to read as follows:

20. "Racing fuel" means leaded gasoline of one hundred ten octane or more that does not meet American society ~~of~~ for testing and materials designation D-4814 for gasoline and is sold in bulk for use in nonregistered motor vehicles.

Sec. 41. Section 455B.484, subsection 3, Code Supplement 2001, is amended to read as follows:

3. Administer and coordinate the land quality and waste management trust fund created under this part.

Sec. 42. Section 455G.3, subsection 6, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

There is appropriated from the unassigned revenue fund administered by the Iowa comprehensive petroleum underground storage tank fund board to the following funds for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts as specified:

Sec. 43. Section 462A.15, subsection 2, Code Supplement 2001, is amended to read as follows:

2. ~~The provisions of subsections 1 and 2 of this section do~~ This section does not apply to a performer engaged in a professional exhibition or a person or persons engaged in a professional exhibition or a person or persons engaged in an activity authorized under section 462A.16.

Sec. 44. Section 505.11, Code Supplement 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 of the excess payment toward the payment of taxes, fines, penalties, or license fees already due or which may become due, until such excess payments have been fully refunded.

Sec. 45. Section 514I.3, subsection 3, Code 2001, is amended to read as follows:

3. The department of human services is designated to receive the state and federal funds appropriated or provided for the program, and to submit and maintain the state plan for the program, which is approved by the health care financing administration centers for Medicare and Medicaid services of the United States department of health and human services.

Sec. 46. Section 518A.35, Code Supplement 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. 47. Section 522B.3, subsection 2, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

A license as an insurance producer shall not be required of any of the following:

Sec. 48. Section 522B.6, subsection 2, paragraph e, Code Supplement 2001, is amended to read as follows:

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

Sec. 49. Section 522B.16, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

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~~ and other relevant legal documents.

Sec. 50. Section 523A.901, subsection 9, paragraph g, Code Supplement 2001, is amended to read as follows:

g. The court shall have summary jurisdiction ~~of~~ in 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.

Sec. 51. Section 614.1, subsection 2A, paragraph b, Code 2001, is amended to read as follows:

b. (1) The fifteen-year limitation in paragraph "a" shall not apply to the time period in which to discover a disease that is latent and caused by exposure to a harmful material, in which event the cause of action shall be deemed to have accrued when the disease and such disease's cause have been made known to the person or at the point the person should have been aware of the disease and such disease's cause. This subsection shall not apply to cases governed by ~~section 614.1, subsection 11~~ of this section.

(2) As used in this paragraph, "harmful material" means ~~silicon~~ silicone gel breast implants, which were implanted prior to July 12, 1992; and chemical substances commonly known as asbestos, dioxins, tobacco, or polychlorinated biphenyls, whether alone or as part of any product; or any substance which is determined to present an unreasonable risk of injury to health or the environment by the United States environmental protection agency pursuant to the federal Toxic Substance Control Act, 15 U.S.C. § 2601 et seq., or by this state, if that risk is regulated by the United States environmental protection agency or this state.

Sec. 52. Section 672.1, subsection 2, Code Supplement 2001, is amended to read as follows:

2. A gleaner, or a restaurant, food establishment, food service establishment, school, manufacturer of foodstuffs, meat ~~and~~ or 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.

Sec. 53. Section 713.6A, subsection 2, Code Supplement 2001, is amended to read as follows:

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~~ subsection is punishable under subsection 1.

Sec. 54. Section 713.6B, subsection 2, Code Supplement 2001, is amended to read as follows:

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~~ subsection is punishable under subsection 1.

Sec. 55. Section 902.9, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

The criminal penalty surcharge required by 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~~ those sections, and is not a part of or subject to the maximums set in this section.

Sec. 56. Section 907.3, subsection 1, paragraph m, Code Supplement 2001, is amended to read as follows:

m. The ~~offense~~ sentence is for a determinate term of confinement or an additional indeterminate term of years as provided in section 902.3A.

Sec. 57. Section 907.3, subsection 2, paragraph g, Code Supplement 2001, is amended to read as follows:

g. The ~~offense~~ sentence is for a determinate term of confinement or an additional indeterminate term of years as provided in section 902.3A.

2001 IOWA ACTS AMENDMENTS

Sec. 58. Section 542D.4, subsection 1, as enacted by 2001 Iowa Acts, chapter 55, section 4, is amended to read as follows:

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~~ At least 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.

Sec. 59. Section 257.14, subsection 1, Code 2001, as amended by 2001 Iowa Acts, chapter 126, section 9, is amended to read as follows:

1. For the budget year commencing July 1, 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 the effective date of this section 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. 60. 2001 Iowa Acts, chapter 153, section 16, is amended to read as follows:

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".

Sec. 61. 2001 Iowa Acts, chapter 183, section 20, the amending clause, is amended to read as follows:

Section ~~169.4~~ 169A.4, Code 2001, is amended to read as follows:

Sec. 62. 2001 Iowa Acts, chapter 185, section 48, subsection 2, is amended to read as follows:

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~~ 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. 63. 2001 Iowa Acts, chapter 189, section 11, is amended by striking the section and inserting in lieu thereof the following:

SEC. 11. Section 304.13A, subsection 1, Code 2001, is 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.

Sec. 64. 2001 Iowa Acts, chapter 189, is amended by adding the following new section:
NEW SECTION. SEC. 11A. Section 304.13A, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

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. 65. EFFECTIVE DATES — RETROACTIVE APPLICABILITY.

1. The section of this Act amending section 257.14, subsection 1, as amended by 2001 Iowa Acts, chapter 126, section 9, takes effect upon enactment and is retroactively applicable to May 9, 2001.

2. The section of this Act amending 2001 Iowa Acts, chapter 153, section 16, 2001 Iowa Acts, chapter 183, section 20, and 2001 Iowa Acts, chapter 189, section 11, and amending 2001 Iowa Acts, chapter 189, by adding a new section take effect upon enactment and are retroactively applicable on and after July 1, 2001.

Approved April 1, 2002

CHAPTER 1051

JAILS AND LOCAL OR REGIONAL CONFINEMENT FACILITIES — SPACE AND NEEDS INVENTORY

S.F. 2278

AN ACT relating to analyzing the confinement and detention needs of jails, and other local or regional confinement facilities, and providing an effective date.

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

Section 1. **NEW SECTION. 356.36A CONFINEMENT AND DETENTION REPORT — DESIGN PROPOSALS.**

The division of criminal and juvenile justice planning of the department of human rights, in consultation with the department of corrections, the Iowa county attorneys association, the Iowa state sheriff's association, the Iowa association of chiefs of police and peace officers, a statewide organization representing rural property taxpayers, the Iowa league of cities, and the Iowa board of supervisors association, shall prepare a report analyzing the confinement and detention needs of jails and facilities established pursuant to chapter¹ 356A. The report for each type of jail or facility shall include but is not limited to an inventory of prisoner space, daily prisoner counts, options for detention of prisoners with mental illness or substance abuse service needs, and the compliance status under section 356.36 for each jail or facility. The report shall contain an inventory of recent jail or facility construction projects in which voters have approved the issuance of general obligation bonds, essential county purpose bonds, revenue bonds, or bonds issued pursuant to chapter 422B. The report shall be revised periodically

¹ See chapter 1175, §83 herein

as directed by the administrator of the division of criminal and juvenile justice planning. The first submission of the report shall include recommendations on offender data needed to estimate jail space needs in the next two, three, and five years, on a county, geographic region, and statewide basis, which may be based upon information submitted pursuant to section 356.49.

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

Approved April 1, 2002

CHAPTER 1052

TEMPORARY OR ACTING COUNTY ATTORNEYS

S.F. 2288

AN ACT relating to the appointment of an acting or a temporary county attorney.

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

Section 1. Section 331.754, Code 2001, is amended to read as follows:

331.754 ABSENCE OR DISQUALIFICATION OF COUNTY ATTORNEY AND ASSISTANTS.

1. In case of absence, sickness, or disability of the county attorney and the assistant county attorneys, the board of supervisors may appoint an attorney to act as county attorney. Upon application of the county attorney or the attorney general, the chief judge or the chief judge's designee may appoint an attorney to act temporarily as county attorney until the board has had sufficient time to appoint an acting county attorney. As an alternative, upon the application of the county attorney or the attorney general, the chief judge or the chief judge's designee may appoint the attorney general to temporarily act as county attorney if the attorney general consents to the appointment. The acting county attorney has the same authority and is subject to the same responsibilities as a county attorney.

2. If the county attorney and all assistant county attorneys are disqualified because of a conflict of interest from performing duties and conducting official business in a juvenile, criminal, contempt, or commitment proceeding which requires the attention of the county attorney, the chief judge or the chief judge's designee, upon application by the county attorney or the attorney general certifying that there is a bona fide reason for the disqualification based upon a principal of law or court rule, may appoint an attorney to act as county attorney in the proceeding. As an alternative, upon application of the county attorney or attorney general certifying that there is a bona fide reason for the disqualification, the chief judge or the chief judge's designee may appoint the attorney general to act as county attorney in the proceeding if the attorney general consents to the appointment. If the attorney general does not consent to the appointment, the chief judge or the chief judge's designee may appoint an attorney designated by the attorney general.

3. Upon any application of the attorney general pursuant to subsection 1 or 2, the county attorney shall be given notice and shall be provided an opportunity to file an objection prior to the appointment of any attorney. This subsection shall not apply if giving notice would jeopardize a criminal investigation.

4. The board may appoint an attorney to act as county attorney in a civil proceeding if the county attorney and all assistant county attorneys are disqualified because of a conflict of interest from performing duties and conducting official business.

5. A temporary or acting county attorney has the same authority and is subject to the same responsibilities as a county attorney.

2. 6. The A temporary or acting county attorney shall receive a reasonable compensation as determined by the board for services rendered in proceedings before a judicial magistrate or rendered on behalf of a county officer or employee. If the proceedings are held before a district associate judge or a district judge, the judge shall determine a reasonable compensation for the temporary or acting county attorney. If the proceedings are held before an associate juvenile judge or a judicial hospitalization referee, the temporary or acting county attorney shall be compensated at a rate approved by the judge who appointed the associate juvenile judge or referee. The compensation shall be paid from funds to be appropriated to the office of county attorney by the board.

7. Notwithstanding subsections 1 through 6, upon request by a county attorney, the attorney general or an assistant attorney general may act as county attorney in a criminal proceeding, on behalf of the state, without appointment by the board, the chief judge, or the chief judge's designee.

Approved April 1, 2002

CHAPTER 1053
BILL OF RIGHTS DAY
H.F. 2248

AN ACT relating to the designation of a Bill of Rights Day.

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

Section 1. NEW SECTION. 1C.12 BILL OF RIGHTS DAY.

The governor of this state is hereby authorized and requested to issue annually a proclamation designating the fifteenth day of December as Bill of Rights Day and to encourage all governmental bodies in the state to observe the day in a manner that emphasizes the meaning and importance of the first ten amendments to the Constitution of the United States, and encourage a formal recitation of the Bill of Rights in its entirety in all schools, government meetings, and courtrooms on or about that date.

Approved April 1, 2002

CHAPTER 1054STATEWIDE UNDERGROUND FACILITIES NOTIFICATION CENTER —
VENDOR CONTRACTS

H.F. 2310

AN ACT relating to vendor contracts for the statewide underground facility notification center.

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

Section 1. Section 480.3, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. A statewide notification center is established and shall be organized as a nonprofit corporation pursuant to chapter 504A.

(1) The center shall be governed by a board of directors which shall represent and be elected by operators, excavators, and other persons who participate in the center. The board, with input from all interested parties, shall determine the operating procedures and technology needed for a single statewide notification center and establish a notification process.

(2) In addition, the board shall either establish a competitive bidding procedure to select a vendor to provide the notification service or retain sufficient and necessary staff to provide the notification service.

(a) If a vendor is selected, the vendor contract shall be for a three-year period, which may be extended upon the approval of the board for a period not exceeding an additional three years. The terms of the agreement for the notification service vendor contract may be modified from time to time by the board, and the agreement vendor. The contract shall be reviewed, with an opportunity to receive new bids, no less frequently than every three years at the end of the term of the contract.

(b) If the board retains staff to provide the notification service, the board, at the board's discretion, may review the notification service at any time and make a determination to use the competitive bidding procedure to select a vendor.

Approved April 1, 2002

CHAPTER 1055WEAPONS PURCHASE, POSSESSION, AND SALE —
PERMITS — CONTIGUOUS OR ADJACENT STATES

H.F. 2363

AN ACT relating to permits for and the possession of weapons and providing penalties.

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

Section 1. Section 724.10, Code 2001, is amended to read as follows:

724.10 APPLICATION FOR PERMIT TO CARRY WEAPONS — CRIMINAL HISTORY CHECK REQUIRED.

A person shall not be issued a permit to carry weapons unless the person has completed and

signed an application on a form to be prescribed and published by the commissioner of public safety. The application shall state the full name, ~~social security number (optional)~~ driver's license or nonoperator's identification card number, residence, and age of the applicant, and shall state whether the applicant has ever been convicted of a felony, whether the person is addicted to the use of alcohol or any controlled substance, and whether the person has any history of mental illness or repeated acts of violence. The applicant shall also display an identification card that bears a distinguishing number assigned to the card holder, the full name, date of birth, sex, residence address, and a brief description and colored photograph of the card holder. ~~Upon notification that criminal history data is available but not later than July 1, 1991, the~~ The sheriff shall conduct immediately a criminal history check concerning each applicant by obtaining criminal history data from the department of public safety. A person who knowingly makes a false statement of material fact on the application commits a class "D" felony.

Sec. 2. Section 724.17, Code 2001, is amended to read as follows:

724.17 APPLICATION FOR ANNUAL PERMIT TO ACQUIRE — CRIMINAL HISTORY CHECK REQUIRED.

The application for an annual permit to acquire pistols or revolvers may be made to the sheriff of the county of the applicant's residence and shall be on a form prescribed and published by the commissioner of public safety. The application shall state the full name of the applicant, the ~~social security~~ driver's license or nonoperator's identification card number of the applicant, the residence of the applicant, and the age of the applicant. The applicant shall also display an identification card that bears a distinguishing number assigned to the cardholder, the full name, date of birth, sex, residence address, and brief description and colored photograph of the cardholder, or other identification as specified by rule of the department of public safety. ~~Upon notification that criminal history data is available but not later than July 1, 1991, the~~ The sheriff shall conduct a criminal history check concerning each applicant by obtaining criminal history data from the department of public safety. A person who knowingly makes a false statement of material fact on the application commits a class "D" felony.

Sec. 3. Section 724.19, Code 2001, is amended to read as follows:

724.19 ISSUANCE OF ANNUAL PERMIT TO ACQUIRE.

The annual permit to acquire pistols or revolvers shall be issued to the applicant immediately upon completion of the application unless the applicant is disqualified under the provisions of section 724.15 and shall be on a form prescribed and published by the commissioner of public safety. The permit shall contain the name of the permittee, ~~the social security number of the permittee,~~ the residence of the permittee, and the effective date of the permit.

Sec. 4. Section 724.26, Code 2001, is amended to read as follows:

724.26 POSSESSION, RECEIPT, TRANSPORTATION, AND OR DOMINION AND CONTROL OF FIREARMS AND OFFENSIVE WEAPONS BY FELONS.

A person who is convicted of a felony in a state or federal court, or who is adjudicated delinquent on the basis of conduct that would constitute a felony if committed by an adult, and who knowingly has under the person's dominion and control or possession, or¹ receives, or transports or causes to be transported a firearm or offensive weapon is guilty of a class "D" felony.

Sec. 5. Section 724.24, Code 2001, is repealed.

Approved April 1, 2002

¹ See chapter 1175, §94; 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §243, 262 herein

CHAPTER 1056**FIRE PROTECTION OR EMERGENCY MEDICAL SERVICES —
DISBURSEMENT OF TOWNSHIP TAXES FOR MUNICIPAL SERVICES***H.F. 2448*

AN ACT relating to diverting township taxes to a municipality providing emergency services to the township.

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

Section 1. Section 359.49, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 7A. A township that has entered into an agreement with a municipality to receive fire protection service or emergency medical service from the municipality may request that a portion of its taxes be paid directly to the municipality providing the fire protection service.¹ Each year, the township must note its request on the budget and must attach a copy of the emergency services agreement to each copy of the budget transmitted to the county auditor. The auditor shall direct the county treasurer as to what portion of the township taxes to disburse to the municipality providing the fire protection service or emergency medical service.

For purposes of this subsection, “municipality” means a city, county, township, benefited fire district, or agency formed under chapter 28E and authorized by law to provide emergency services.

Approved April 1, 2002

CHAPTER 1057**STUDENT FINANCIAL AID PROGRAMS —
SANCTIONS AGAINST LICENSES OF DEFAULTERS***H.F. 2467*

AN ACT providing for licensure sanctions against defaulters of designated loan and scholarship programs.

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

Section 1. Section 272C.4, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Establish procedures consistent with the provisions of section 261.121, subsection 2, and sections 261.122 through 261.127 by which, in the board’s discretion, a license shall be suspended, denied, or revoked, or other disciplinary action imposed, with regard to a licensee subject to the board’s jurisdiction who has defaulted on a repayment or service obligation under any federal or state educational loan or service-conditional scholarship program. Notwithstanding any other provision to the contrary, each board shall defer to the federal or state program’s determination of default upon certification by the program of such a default on the part of a licensee, and shall remove the suspension, grant the license,

¹ See chapter 1175, §84 herein

or stay the revocation or other disciplinary action taken if the federal or state program certifies that the defaulting licensee has agreed to fulfill the licensee's obligation, or is complying with an approved repayment plan. Licensure sanctions shall be reinstated upon certification that a defaulting licensee has failed to comply with the repayment or service requirements, as determined by the federal or state program. The provisions of this subsection relating to board authority to act in response to notification of default shall apply not only to a licensing board, as defined in section 272C.1, but also to any other licensing board or authority regulating a license authorized by the laws of this state.

Approved April 1, 2002

CHAPTER 1058

OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT AND SENIOR INTERNSHIP PROGRAMS

H.F. 2488

AN ACT relating to the department of elder affairs including provisions relating to the elder Iowans Act.

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

Section 1. Section 231.51, Code 2001, is amended to read as follows:

231.51 ~~SENIOR~~ OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM (SCSEP), TITLE V OF THE OLDER AMERICANS ACT.

1. The department ~~will~~ shall direct and administer the ~~senior~~ older American community service employment program (SCSEP) as authorized by the federal Act in coordination with the department of workforce development and the department of economic development.

2. The purpose of the ~~senior community service employment~~ program is to foster and promote useful part-time opportunities in community service activities for unemployed, low-income persons who are fifty-five years old or older individual economic self-sufficiency and to increase the number of participants placed in unsubsidized employment in the public and private sectors while maintaining the community service focus of the program.

3. Funds appropriated to the department from the United States department of labor shall be distributed to local projects in accordance with federal requirements.

4. The department shall require such uniform reporting and financial accounting by area agencies on aging and local projects as may be necessary to fulfill the purposes of this section.

Sec. 2. Section 231.52, Code 2001, is amended to read as follows:

231.52 ~~RETIRED IOWANS COMMUNITY EMPLOYMENT~~ SENIOR INTERNSHIP PROGRAM (RICEP).

1. The department shall establish the ~~retired Iowans community employment~~ senior internship program in coordination with the department of workforce development to encourage and promote the meaningful employment of older ~~citizens in the state~~ Iowans.

2. Funds appropriated to the department for this purpose shall be distributed ~~statewide~~ according to administrative rules by the commission.

3. The department shall require such uniform reporting and financial accounting by area agencies on aging and local projects as may be necessary to fulfill the purposes of this section.

Sec. 3. Section 231.53, Code Supplement 2001, is amended by striking the section and inserting in lieu thereof the following:¹

231.53 COORDINATION WITH WORKFORCE INVESTMENT ACT.

The employment and training program administered by the department shall be coordinated with the training program for older individuals administered by the department of workforce development under the federal Workforce Investment Act.

Approved April 1, 2002

CHAPTER 1059

GIFT CERTIFICATES — LATE CLAIMS CHARGES

H.F. 2497

AN ACT relating to charges imposed on unclaimed gift certificates.

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

Section 1. Section 556.9, Code 2001, is amended to read as follows:

556.9 MISCELLANEOUS PERSONAL PROPERTY HELD FOR ANOTHER PERSON —
GIFT CERTIFICATES.

1. All intangible personal property, not otherwise covered by this chapter, including any income or increment ~~thereon~~ earned on the property and deducting any lawful charges, that is held or owing in this state in the ordinary course of the holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable is presumed abandoned.

2. An issuer of a gift certificate shall not deduct from the face value of the gift certificate any charge imposed due to the failure of the owner of the gift certificate to present the gift certificate in a timely manner, unless a valid and enforceable written contract exists between the issuer and the owner of the gift certificate pursuant to which the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel them. For purposes of this subsection, "gift certificate" means a merchandise certificate conspicuously designated as a gift certificate, and generally purchased by a buyer for use by a person other than the buyer.

Approved April 1, 2002

¹ "NEW SECTION. 231.53" probably intended

CHAPTER 1060

LOCAL EXCHANGE CARRIER REGULATION — RATE CHANGES

S.F. 429

AN ACT relating to price regulation for local exchange carriers, including the modification or adjustment of certain rates, making an appropriation, and providing an effective date.

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

Section 1. Section 476.97, subsection 11, paragraph e, subparagraph (1), Code 2001, is amended by striking the subparagraph and inserting in lieu thereof the following:

(1) A price-regulated local exchange carrier shall not increase its rates for basic communications services, for a period of twelve months after electing to become price regulated. To the extent necessary, rates for basic services may be increased to carry out the purpose of any rules that may be adopted by the board relating to the terms and conditions of unbundled services and interconnection. A price-regulated local exchange carrier may increase its rates for basic communications services following the initial twelve-month period, to the extent that the change in its aggregate revenue weighted prices does not exceed the most recent annual change in the gross domestic product price index, as published by the federal government. If application of that formula achieves a negative result, prices shall be reduced so that the cumulative price change for basic services, including prior price reductions in these services, achieves the negative result. The board by rule may adopt different measures of inflation if they are found to be more reflective of the individual price-regulated carriers.

Sec. 2. Section 476.97, subsection 11, paragraph g, subparagraph (4), Code 2001, is amended by striking the subparagraph and inserting in lieu thereof the following:

(4) Rates may be adjusted by the board to reflect any changes in revenues, expenses, and investment due to exogenous factors beyond the control of the local exchange carrier, including, but not limited to, the effects of local competition. The board shall have ninety days to consider rate changes proposed under this subparagraph, but for good cause may grant one or more extensions in thirty-day increments, not to exceed a total of one hundred eighty days.²

Sec. 3. Section 476.97, subsection 11, paragraph h, Code 2001, is amended to read as follows:

h. The board may review a local exchange carrier's operation under this subsection, with notice and an opportunity for hearing, after four years of the carrier's election to be price-regulated. The local exchange carrier, consumer advocate, or any person may propose, and the board may approve, any reasonable modifications to the price-regulation requirements in this subsection as a result of the specific carrier review, ~~except that such~~ with the following limitations:

(1) Such modifications shall not require a reduction in the rates for any basic communications service or a return to rate-base, rate-of-return regulation.

(2) Such proposals for modifications under this paragraph "h" are limited to no more than one every three years.

The board shall approve, or approve subject to modification, a proposal for modification within one hundred eighty days of filing, but for good cause may grant one extension of sixty days, not to exceed a total of two hundred forty days. Reasonable modifications may include increases without offsetting decreases in any rate for basic and nonbasic communications service of the carrier. In reviewing the carrier's proposal, the board shall consider, but not be limited to, potential rate consolidations, the impact of competition or other external factors since election of price regulation, the impact of the proposal on the carrier's ability to attract capital, and the impact of the proposal on the ability of the carrier to deploy advanced telecommunications services.

² See chapter 1175, §36 herein

Sec. 4. Section 476.97, subsection 11, Code 2001, is amended by adding the following new paragraphs:

NEW PARAGRAPH. j. Upon the request of a local exchange carrier, the board shall, when required by this subsection, grant the carrier temporary authority to place in effect seventy-five percent, or such lesser amount as the carrier may request, of the requested increases in rates, charges, schedules, or regulations by filing with the board a bond conditioned upon the refund in a manner to be prescribed by the board of any amounts collected from any customer class in excess of the amounts which would have been collected under rates, charges, schedules, or regulations finally approved by the board. The board shall approve a request for temporary authority within thirty days after the date of filing of the request. The decision shall be effective immediately.

The board shall determine the rate of interest to be paid by a public utility to persons receiving refunds. The interest rate to be applied to refunds of moneys collected subject to refund under this subsection is one percent per annum plus the average quarterly interest rate at commercial banks for twenty-four-month loans for personal expenditures, as determined by the board, compounded annually. The board shall consider federal reserve statistical release G.19 or its equivalent when determining interest to be paid under this subsection.

NEW PARAGRAPH. k. The board and the consumer advocate may employ additional temporary staff, or may contract for professional services with persons who are not state employees, as the board and consumer advocate deem necessary to review a local exchange carrier's operations, proposal for modifications, rate change proposal, or proposed changes in aggregate revenue weighted prices pursuant to this subsection. Beginning July 1, 2002, there is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board to hire additional staff and contract for services under this subsection. The costs of the additional staff and services shall be assessed to the local exchange carrier pursuant to the procedures in sections 475A.6 and 476.10.

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

Approved April 4, 2002

CHAPTER 1061

LIFE-SUSTAINING PROCEDURES — OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDERS

S.F. 2155

AN ACT providing for the issuance of out-of-hospital do-not-resuscitate orders and making penalties applicable.

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

Section 1. Section 144A.2, Code 2001, is amended to read as follows:
144A.2 DEFINITIONS.

Except as otherwise provided, as used in this chapter:

1. "Adult" means an individual eighteen years of age or older.
2. "Attending physician" means the physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

3. "Declaration" means a document executed in accordance with the requirements of section 144A.3.

4. "Department" means the Iowa department of public health.

5. "Emergency medical care provider" means emergency medical care provider as defined in section 147A.1.

4. ~~6.~~ "Health care provider" means a person, including an emergency medical care provider, who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.

7. "Hospital" means hospital as defined in section 135B.1.

5. ~~8.~~ "Life-sustaining procedure" means any medical procedure, treatment, or intervention, including resuscitation, which meets both of the following requirements:

a. Utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function.

b. When applied to a patient in a terminal condition, would serve only to prolong the dying process.

"Life-sustaining procedure" does not include the provision of nutrition or hydration except when required to be provided parenterally or through intubation or the administration of medication or performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.

9. "Out-of-hospital do-not-resuscitate order" means a written order signed by a physician, executed in accordance with the requirements of section 144A.7A and issued consistent with this chapter, that directs the withholding or withdrawal of resuscitation when an adult patient in a terminal condition is outside the hospital.

6. ~~10.~~ "Physician" means a person licensed to practice medicine and surgery, osteopathy or osteopathic medicine and surgery in this state.

7. ~~11.~~ "Qualified patient" means a patient who has executed a declaration or an out-of-hospital do-not-resuscitate order in accordance with this chapter and who has been determined by the attending physician to be in a terminal condition.

12. "Resuscitation" means any medical intervention that utilizes mechanical or artificial means to sustain, restore, or supplant a spontaneous vital function, including but not limited to chest compression, defibrillation, intubation, and emergency drugs intended to alter cardiac function or otherwise to sustain life.

8. ~~13.~~ "Terminal condition" means an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician, result in death within a relatively short period of time or a state of permanent unconsciousness from which, to a reasonable degree of medical certainty, there can be no recovery.

Sec. 2. Section 144A.3, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The declaration must be signed by the declarant or another person acting on behalf of the declarant at the direction of the declarant, must contain the date of ~~its~~ the declaration's execution, and must be witnessed or acknowledged by one of the following methods:

Sec. 3. Section 144A.3, subsection 2, paragraph a, subparagraphs (1) and (2), Code 2001, are amended to read as follows:

(1) A health care provider attending the declarant on the date of execution of the declaration.

(2) An employee of a health care provider attending the declarant on the date of execution of the declaration.

Sec. 4. Section 144A.7, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. The attorney in fact designated to make treatment decisions for the patient should such person be diagnosed as suffering from a terminal condition, if the designation is in writing and complies with chapter 144B or section 633.705.

Sec. 5. NEW SECTION. 144A.7A OUT-OF-HOSPITAL DO-NOT-RESUSCITATE ORDERS.

1. If an attending physician issues an out-of-hospital do-not-resuscitate order for an adult patient under this section, the physician shall use the form prescribed pursuant to subsection 2, include a copy of the order in the patient's medical record, and provide a copy to the patient or an individual authorized to act on the patient's behalf.

2. The department, in collaboration with interested parties, shall prescribe uniform out-of-hospital do-not-resuscitate order forms and uniform personal identifiers, and shall adopt administrative rules necessary to implement this section. The uniform forms and personal identifiers shall be used statewide.

3. The out-of-hospital do-not-resuscitate order form shall include all of the following:

- a. The patient's name.
- b. The patient's date of birth.
- c. The name of the individual authorized to act on the patient's behalf, if applicable.
- d. A statement that the patient is in a terminal condition.
- e. The physician's signature.
- f. The date the form is signed.
- g. A concise statement of the nature and scope of the order.
- h. Any other information necessary to provide clear and reliable instructions to a health care provider.

4. A health care provider may withhold or withdraw resuscitation outside a hospital consistent with an out-of-hospital do-not-resuscitate order issued under this section and the rules or protocols adopted by the department.

5. In fulfilling the instructions of an out-of-hospital do-not-resuscitate order under this chapter, a health care provider shall continue to provide appropriate comfort care and pain relief to the patient.

6. An out-of-hospital do-not-resuscitate order shall not apply when a patient is in need of emergency medical services due to a sudden accident or injury resulting from a motor vehicle collision, fire, mass casualty, or other cause of a sudden accident or injury which is outside the scope of the patient's terminal condition.

7. An out-of-hospital do-not-resuscitate order is deemed revoked at any time that a patient, or an individual authorized to act on the patient's behalf as designated on the out-of-hospital do-not-resuscitate order, is able to communicate in any manner the intent that the order be revoked, without regard to the mental or physical condition of the patient. A revocation is only effective as to the health care provider upon communication to that provider by the patient, an individual authorized to act on the patient's behalf as designated in the order, or by another person to whom the revocation is communicated.

8. The personal wishes of family members or other individuals who are not authorized in the order to act on the patient's behalf shall not supersede a valid out-of-hospital do-not-resuscitate order.

9. If uncertainty regarding the validity or applicability of an out-of-hospital do-not-resuscitate order exists, a health care provider shall provide necessary and appropriate resuscitation.

10. A health care provider shall document compliance or noncompliance with an out-of-hospital do-not-resuscitate order and the reasons for not complying with the order, including evidence that the order was revoked or uncertainty regarding the validity or applicability of the order.

11. This section shall not preclude a hospital licensed under chapter 135B from honoring an out-of-hospital do-not-resuscitate order entered in accordance with this section and in compliance with established hospital policies and protocols.

Sec. 6. Section 144A.8, Code 2001, is amended to read as follows:

144A.8 TRANSFER OF PATIENTS.

1. An attending physician who is unwilling to comply with the requirements of section 144A.5, or who is unwilling to comply with the declaration of a qualified patient in accordance

with section 144A.6 or an out-of-hospital do-not-resuscitate order pursuant to section 144A.7A, or who is unwilling to comply with the provisions of section 144A.7 or 144A.7A shall take all reasonable steps to effect the transfer of the patient to another physician.

2. If the policies of a health care provider preclude compliance with the declaration or out-of-hospital do-not-resuscitate order of a qualified patient under this chapter or preclude compliance with the provisions of section 144A.7 or 144A.7A, the provider shall take all reasonable steps to effect the transfer of the patient to a facility in which the provisions of this chapter can be carried out.

Sec. 7. Section 144A.9, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

In the absence of actual notice of the revocation of a declaration or of an out-of-hospital do-not-resuscitate order, the following, while acting in accordance with the requirements of this chapter, are not subject to civil or criminal liability or guilty of unprofessional conduct:

Sec. 8. SECTION 144A.9, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 4. In the absence of actual notice of the revocation of an out-of-hospital do-not-resuscitate order, a health care provider who complies with this chapter is not subject to civil or criminal liability or guilty of unprofessional conduct in entering, executing, or otherwise participating in an out-of-hospital do-not-resuscitate order.

Sec. 9. Section 144A.10, Code 2001, is amended to read as follows:
144A.10 PENALTIES.

1. Any person who willfully conceals, withholds, cancels, destroys, alters, defaces, or obliterates the declaration, out-of-hospital do-not-resuscitate order, or out-of-hospital do-not-resuscitate identifier of another without the declarant's or patient's consent or who falsifies or forges a revocation of the declaration or out-of-hospital do-not-resuscitate order of another is guilty of a serious misdemeanor.

2. Any person who falsifies or forges the declaration or out-of-hospital do-not-resuscitate order of another, or willfully conceals or withholds personal knowledge of or delivery of a revocation as provided in section 144A.4 or 144A.7A, with the intent to cause a withholding or withdrawal of life-sustaining procedures, is guilty of a serious misdemeanor.

Sec. 10. Section 144A.11, subsections 1, 2, 3, and 4, Code 2001, are amended to read as follows:

1. Death resulting from the withholding or withdrawal of life-sustaining procedures pursuant to a declaration or out-of-hospital do-not-resuscitate order and in accordance with this chapter does not, for any purpose, constitute a suicide, or homicide, or dependent adult abuse.

2. The making executing of a declaration pursuant to section 144A.3 or an out-of-hospital do-not-resuscitate order pursuant to section 144A.7A does not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance is legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining procedures pursuant to this chapter, notwithstanding any term of the policy to the contrary.

3. A physician, health care provider, health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital plan shall not require any person to execute a declaration or an out-of-hospital do-not-resuscitate order as a condition for being insured for, or receiving, health care services.

4. This chapter creates no presumption concerning the intention of an individual who has not executed a declaration or an out-of-hospital do-not-resuscitate order with respect to the use, withholding, or withdrawal of life-sustaining procedures in the event of a terminal condition.

Sec. 11. APPLICATION TO EXISTING ORDERS. An out-of-hospital do-not-resuscitate

order or similar order executed prior to July 1, 2002, is valid and shall be honored in accordance with the then-applicable provisions of law.

Approved April 4, 2002

CHAPTER 1062

DRY FIRE HYDRANT AND RURAL WATER SUPPLY EDUCATION AND DEMONSTRATION PROJECT

S.F. 2160

AN ACT relating to the dry fire hydrant and rural water supply education and demonstration project.

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

Section 1. DRY FIRE HYDRANTS. For purposes of the dry fire hydrant and rural water supply education and demonstration project created in 1998 Iowa Acts, chapter 1219, and administered by the department of economic development, "dry fire hydrant" means a water supply system permanently installed in existing lakes, ponds, streams, holding tanks, or other water sources that provide a ready means of water to be transported by a fire tanker truck.

Approved April 4, 2002

CHAPTER 1063

HIGHWAYS AND MOTOR VEHICLES — MISCELLANEOUS PROVISIONS

S.F. 2192

AN ACT relating to highways and motor vehicles and condemnation, including condemnation of property by the state department of transportation, registration, sale, and operation of certain vehicles, issuance of driver's licenses and nonoperator's identification cards, regulation of oversize vehicles, and vehicle manufacturers, distributors, and dealers, and providing penalties and effective dates.

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

DIVISION I HIGHWAYS

Section 1. Section 6B.2A, subsection 4, Code 2001, is amended to read as follows:
4. This section shall not apply to a condemnation of property by the state department of transportation or a county for right-of-way that is contiguous to an existing road right-of-way

and necessary for the maintenance, safety improvement, or repair, or upgrade of the existing road. Notwithstanding section 6B.2C, a condemnation of property by the state department of transportation pursuant to this subsection shall be approved by the director of the department of transportation. For purposes of this subsection, "upgrade" means to bring a road or bridge up to currently acceptable standards, including improved geometrics, passing lanes, turning lanes, climbing lanes, and improved shoulders. "Upgrade" does not include expanding a highway from two lanes to four lanes.

Sec. 2. Section 6B.18, Code 2001, is amended to read as follows:

6B.18 NOTICE OF APPRAISEMENT — APPEAL OF AWARD — NOTICE OF APPEAL.

1. After the appraisal of damages has been delivered to the sheriff by the compensation commission, the sheriff shall give written notice, by ordinary mail, to the condemner and the condemnee of the date on which the appraisal of damages was made, the amount of the appraisal, and that any interested party may, within thirty days from the date of mailing the notice of the appraisal of damages, appeal to the district court by filing notice of appeal with the district court of the county in which the real estate is located and by giving written notice to the sheriff that the appeal has been taken. The sheriff shall endorse the date of mailing of notice upon the original appraisal of damages. At the time of appeal, the appellant shall give written notice that the appeal has been taken to the adverse party, or the adverse party's agent or attorney, lienholders, and the sheriff.

2. An appeal of appraisal of damages is deemed to be perfected upon filing of a notice of appeal with the district court within thirty days from the date of mailing the notice of appraisal of damages. The notice of appeal shall be served on the adverse party, or the adverse party's agent or attorney, any lienholders and encumbrancers of the property in the same manner as an original notice within thirty days from the date of filing the notice of appeal unless, for good cause shown, the court grants more than thirty days. If after reasonable diligence, the notice cannot be personally served, the court may prescribe an alternative method of service consistent with due process of law.

3. In case of condemnation proceedings instituted by the state department of transportation, when the owner appeals from the assessment made, such notice of appeal shall be served upon the attorney general, or the department general counsel to the state department of transportation, or the chief highway engineer for the department.

Sec. 3. Section 6B.22, Code 2001, is amended to read as follows:

6B.22 PLEADINGS ON APPEAL.

A written petition shall be filed by the plaintiff within ~~twenty~~ thirty days after perfection of the appeal, stating specifically the items of damage and the amount thereof. The court may for good cause shown grant additional time for the filing of the petition. The defendant shall file a written answer to plaintiff's petition, or such other pleadings as may be proper.

Sec. 4. Section 6B.24, Code 2001, is amended to read as follows:

6B.24 REDUCTION OF DAMAGES — INTEREST ON INCREASED AWARD.

If the amount of damages awarded by the commissioners is decreased on appeal, the reduced amount shall be paid to the landowner. If the amount of damages awarded by the commissioners is increased on appeal, interest shall be paid from the date of the condemnation. Interest shall not be paid on any amount which was previously paid. Interest shall be calculated at an annual 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 before the date of the award.

Sec. 5. Section 6B.33, Code 2001, is amended to read as follows:

6B.33 COSTS AND ATTORNEY FEES.

The applicant shall pay all costs of the assessment made by the commissioners and reason-

able attorney fees and costs incurred by the condemnee as determined by the commissioners if the award of the commissioners exceeds one hundred ten percent of the final offer of the applicant prior to condemnation. The condemnee shall submit an application for fees and costs prior to adjournment of the final meeting of the compensation commission held on the matter. The applicant shall file with the sheriff an affidavit setting forth the most recent offer made to the person whose property is sought to be condemned. Members of such commissions shall receive a per diem of two hundred dollars and actual and necessary expenses incurred in the performance of their official duties. The applicant shall reimburse the county sheriff for the per diem and expense amounts paid by the sheriff to the members. The applicant shall reimburse the owner for the expenses the owner incurred for recording fees, penalty costs for full or partial prepayment of any preexisting recorded mortgage entered into in good faith encumbering the property, and for similar expenses incidental to conveying the property to the applicant. The applicant shall also pay all costs occasioned by the appeal, including reasonable attorney fees to be taxed by the court, unless on the trial thereof the same or a lesser amount of damages is awarded than was allowed by the tribunal from which the appeal was taken.

Sec. 6. Section 307.22, Code 2001, is amended by adding the following new subsections: NEW SUBSECTION. 6. Conduct a study of the road and bridge facilities in state parks, state institutions, state fairgrounds, and on community college property. The study shall evaluate the construction and maintenance needs and projected needs based upon estimated growth for each type of facility to provide a quadrennially updated standard upon which to allocate funds appropriated for the purposes of this subsection.

NEW SUBSECTION. 7. Prepare, adopt, and cause to be published the results of a study of secondary roads in the state. The study shall be designed to investigate present deficiencies and future twenty-year maintenance and construction needs of the roads. The study shall be referred to as the "quadrennial need study" for the purposes of this chapter, chapter 307A, and chapter 312. The department shall report the results of the study to the general assembly by July 1, 2002, and the study results shall take effect July 1, 2003.

NEW SUBSECTION. 8. Annually recalculate the construction and maintenance needs of roads under the jurisdiction of each county to take into account the needs of a road whose jurisdiction has been transferred from the department to a county or from a county to the department during the previous year. The recalculation shall be reported by January 1 of the year following the transfer and shall take effect the following July 1 for the purposes of allocating moneys under sections 312.3 and 312.5.

Sec. 7. Section 307A.2, subsection 11, Code 2001, is amended to read as follows:

11. Construct, reconstruct, improve, and maintain state institutional roads and state park roads, which are part of the state park, state institution, and other state land road system as defined in section 306.3, and bridges on such roads, roads located on state fairgrounds as defined in chapter 173, and the roads and bridges located on community college property as defined in chapter 260C, upon the request of the state board, department, or commission which has jurisdiction over such roads. This shall be done in such manner as may be agreed upon by the state transportation commission and the state board, department, or commission which has jurisdiction. The commission may contract with any county or municipality for the construction, reconstruction, improvement, or maintenance of such roads and bridges. Any state park road which is an extension of either a primary or secondary highway which both enters and exits from a state park at separate points shall be constructed, reconstructed, improved, and maintained as provided in section 306.4. Funds allocated from the road use tax fund for the purposes of this subsection shall be apportioned in the ratio that the needs of the state institutional roads and bridges, park roads and bridges, or community college roads and bridges bear to the total needs of these facilities based upon the most recent quadrennial park and institution need study. ~~The commission shall conduct a study of the road and bridge facilities in state parks, state institutions, state fairgrounds, and on community college property. The~~

~~study shall evaluate the construction and maintenance needs and projected needs based upon estimated growth for each type of facility to provide a quadrennially updated standard upon which to allocate funds appropriated for the purposes of this subsection.~~

Sec. 8. Section 307A.2, subsections 14 and 14A, Code 2001, are amended by striking the subsections.

Sec. 9. Section 312.3, subsection 1, unnumbered paragraph 2, Code 2001, is amended to read as follows:

For the purposes of this subsection, "latest quadrennial need study report" includes the annual recalculation of construction and maintenance needs of roads whose jurisdiction has been transferred from the department to a county or from a county to the department during the previous year as recalculated pursuant to ~~section 307A.2, subsection 14A~~ 307.22, subsection 8.

Sec. 10. Section 309.57, unnumbered paragraph 5, Code 2001, is amended to read as follows:

A road with an area service "C" classification shall retain the classification until such time as a petition for reclassification is submitted to the board of supervisors. The petition shall be signed by one or more adjoining landowners. The board of supervisors shall approve or deny the request for reclassification within sixty days of receipt of the petition.

Sec. 11. NEW SECTION. 312.3B IOWA COUNTY ENGINEERS ASSOCIATION SERVICE BUREAU SUPPORT FUND.

Prior to the allocation to the counties under section 312.3, subsection 1, the department is authorized to set aside each year twenty-five hundredths of one percent from the secondary road fund for deposit in a fund to be known as the Iowa county engineers association service bureau support fund. The Iowa county engineers association service bureau support fund shall be used by the department solely for the purpose of supporting the Iowa county engineers association service bureau. Unobligated funds remaining in the Iowa county engineers association service bureau support fund on June 30 of the fiscal year shall revert to the secondary road fund. On or before January 31 of each year, the Iowa county engineers association service bureau shall file a report with the governor, state transportation commission, county engineers, chief clerk of the house of representatives, and secretary of the senate showing the activity accomplished under this section.

Sec. 12. NEW SECTION. 312.3C SECONDARY ROAD FUND DISTRIBUTION ADVISORY COMMITTEE.

A secondary road fund distribution advisory committee is established to consider methodologies for distribution of moneys in the secondary road fund and farm-to-market road fund. The committee shall be comprised of representatives appointed by the president of the Iowa county engineers association, the president of the Iowa county supervisors association, and the department. The committee shall recommend to the general assembly, for the general assembly's consideration and adoption, one or more alternative methodologies for distribution of moneys in the secondary road fund and the farm-to-market road fund.

Sec. 13. Section 312.5, subsection 4, unnumbered paragraph 2, Code 2001, is amended to read as follows:

"Latest quadrennial need study report" includes the annual recalculation of construction and maintenance needs of roads whose jurisdiction has been transferred from the department to a county or from a county to the department during the prior year as recalculated pursuant to ~~section 307A.2, subsection 14A~~ 307.22, subsection 8.

Sec. 14. Section 314.8, Code 2001, is amended to read as follows:

314.8 GOVERNMENT MARKERS PRESERVED.

1. Whenever ~~If it may become~~ is necessary in grading the highways a highway to make a

cut ~~which that~~ will disturb, or fill ~~which that~~ will cover up, a government or other established corner or land monument, ~~it shall be the duty of the engineer to in charge of the project shall~~ establish permanent witness corners or monuments, and make a record of the same, ~~which shall that~~ show the distance and direction the witness corner is from the corner disturbed or covered up. When ~~said the~~ construction work is completed the engineer shall permanently re-establish ~~said reestablish the~~ corner or monument. ~~A failure to perform said duties shall subject the engineer to a fine of not less than ten dollars nor more than fifty dollars to be collected on the engineer's bond.~~

2. If the duties in subsection 1 are not performed, the agency in control of the highway on which a project described in subsection 1 has been or is being completed shall pay the costs of restoring the original position of the established corner or land monument.

Sec. 15. Section 6B.19, Code 2001, is repealed.

Sec. 16. EFFECTIVE DATE. The sections of this division of this Act amending sections 307.22, 307A.2, and 312.3, enacting sections 312.3B and 312.3C, and amending section 312.5, being deemed of immediate importance, take effect upon enactment.

DIVISION II MOTOR VEHICLES

Sec. 17. Section 321.1, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 20B. "Electric personal assistive mobility device" means a self-balancing device powered by an electric propulsion system that averages seven hundred fifty watts, has two nontandem wheels, and is designed to transport one person, with a maximum speed on a paved level surface of less than twenty miles per hour. The maximum speed shall be calculated based on operation of the device by a person who weighs one hundred seventy pounds when the device is powered solely by the electric propulsion system.

Sec. 18. Section 321.1, subsection 40, paragraph b, Code Supplement 2001, is amended to read as follows:

b. "Motorized bicycle" or "motor bicycle" means a motor vehicle having a saddle or a seat for the use of a rider and designed to travel on not more than three wheels in contact with the ground, with an engine having a displacement no greater than fifty cubic centimeters and not capable of operating at a speed in excess of ~~twenty-five~~ thirty miles per hour on level ground unassisted by human power.

Sec. 19. Section 321.57, subsections 1, 2, and 4, Code Supplement 2001, are amended to read as follows:

1. A ~~manufactured home retailer~~ dealer owning any vehicle of a type otherwise required to be registered under this chapter may operate or move the vehicle upon the highways solely for purposes of transporting, testing, demonstrating, or selling the vehicle without registering the vehicle, upon condition that the vehicle display in the manner prescribed in sections 321.37 and 321.38 a special plate issued to the owner as provided in sections 321.58 to 321.62. Additionally, a new car dealer or a used car dealer may operate or move upon the highways a new or used car or trailer owned by the dealer for either private or business purposes without registering it if the new or used car or trailer is in the dealer's inventory and is continuously offered for sale at retail, and there is displayed on it a special plate issued to the dealer as provided in sections 321.58 to 321.62.

2. In addition, while a service customer is having the customer's own vehicle serviced or repaired by the ~~manufactured home retailer~~ dealer, the service customer of the ~~manufactured home retailer~~ dealer may operate upon the highways a motor vehicle owned by the ~~manufactured home retailer~~ dealer, except a motor truck or truck tractor, upon which there is displayed

a special plate issued to the ~~manufactured home retailer dealer~~, provided all of the requirements of this section are complied with.

4. The provisions of this section and sections 321.58 to 321.62, shall not apply to any vehicles offered for hire, work or service vehicles owned by a transporter or ~~manufactured home retailer dealer~~.

Sec. 20. Section 321.58, Code Supplement 2001, is amended to read as follows:

321.58 APPLICATION.

All ~~manufactured home retailers dealers~~, transporters, new motor vehicle wholesalers licensed under chapter 322, and manufactured home retailers licensed under chapter 322B, upon payment of a fee of seventy dollars for two years, one hundred forty dollars for four years, or two hundred ten dollars for six years, may make application to the department upon the appropriate form for a certificate containing a general distinguishing number and for one or more special plates as appropriate to various types of vehicles subject to registration. The applicant shall also submit proof of the applicant's status as a bona fide transporter, new motor vehicle wholesaler licensed under chapter 322, manufactured home retailer licensed under chapter 322B, or ~~manufactured home retailer dealer~~, as reasonably required by the department. Dealers in new vehicles shall furnish satisfactory evidence of a valid franchise with the manufacturer of the vehicles authorizing the dealership.

Sec. 21. Section 321.69, subsection 7, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to the information required in subsection 2, a separate disclosure document shall state whether the vehicle's certificate of title indicates the existence of damage prior to the period of the transferor's ownership of the vehicle, and the amount of that damage if the transferor knows or reasonably should know of the prior damage, and whether the vehicle was titled as a salvage vehicle during the period of the transferor's ownership of the vehicle.

Sec. 22. Section 321.127, subsection 4, Code 2001, is amended to read as follows:

4. Refunds ~~and credits~~ for motor vehicles registered for proportional registration under chapter 326 shall be paid ~~or credited~~ on the basis of unexpired complete calendar months remaining in the registration year from the date the claim ~~or application is filed with~~ for refund, license plate, and registration receipt are received by the department.

Sec. 23. Section 321.182, subsections 1 and 3, Code Supplement 2001, are amended to read as follows:

1. a. 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. Pursuant to procedures established by the department and for an applicant who is a foreign national temporarily present in this state, the department may waive the requirement that the application include the applicant's social security number.

b. 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.

3. Certify that the applicant has no other driver's license ~~and certify that the applicant is a resident of this state as provided in section 321.1A.~~ However, certification of residency is not required for an applicant for a nonresident commercial driver's license who is a foreign national temporarily present in this state, as determined by the department.

Sec. 24. Section 321.190, subsection 1, paragraphs a and d, Code Supplement 2001, are amended to read as follows:

a. The department shall, upon application and payment of the required fee, issue to an applicant a nonoperator's identification card. To be valid the card shall bear a distinguishing number assigned to the card holder, the full name, date of birth, sex, residence address, a physical description and a colored photograph of the card holder, the usual signature of the card holder, and such other information as the department may require by rule. An applicant for a nonoperator's identification card shall apply for the card in the manner provided in section 321.182, subsections 1 through 3. The card shall be issued to the applicant at the time of application pursuant to procedures established by rule.

d. The fee for a nonoperator's identification card shall be five dollars and the card shall be valid for a period of ~~four~~ five years from the date of issuance. A nonoperator's identification card shall be issued without expiration to anyone age seventy or over. If an applicant for a nonoperator's identification card is a foreign national who is temporarily present in this state, the nonoperator's identification card shall be issued only for the length of time the foreign national is authorized to be present as determined by the department, not to exceed two years. ~~No~~ An issuance fee shall not be charged for a person whose driver's license or driving privilege has been suspended under section 321.210, subsection 1, paragraph "c".

The nonoperator's identification card fees shall be transmitted by the department to the treasurer of state who shall credit the fees to the road use tax fund.

Sec. 25. Section 321.191, subsections 2 through 4, Code 2001, are amended to read as follows:

2. NONCOMMERCIAL DRIVER'S LICENSES. The fee for a noncommercial driver's license, other than a class D driver's license or any type of instruction permit, ~~valid for two years is eight~~ four dollars per year of license validity.

3. LICENSES FOR CHAUFFEURS. The fee for a noncommercial class D driver's license ~~valid for two years is sixteen~~ eight dollars per year of license validity.

4. COMMERCIAL DRIVER'S LICENSES. ~~An additional~~ The fee of eight dollars is required to issue for a commercial driver's license, other than an instruction permit, ~~valid for two years for the operation of a commercial motor vehicle is eight~~ dollars per year of license validity.

Sec. 26. Section 321.191, subsection 7, Code 2001, is amended by striking the subsection.

Sec. 27. Section 321.191, subsection 8, Code 2001, is amended to read as follows:

8. ENDORSEMENTS AND REMOVAL OF AIR BRAKE RESTRICTIONS. The fee for a double/triple trailer endorsement, tank vehicle endorsement, and hazardous materials endorsement is five dollars for each endorsement. The fee for a passenger endorsement is ten dollars. The fee for removal of an air brake restriction on a commercial driver's license is ten dollars. Fees imposed under this subsection for endorsements or removal of restrictions are valid for the ~~length of the time~~ period of the license ~~regardless of whether the license is issued for two or four years.~~ Upon renewal of a commercial driver's license ~~there is no fee is payable~~ for retaining endorsements or the removal of the air brake restriction for those endorsements or restrictions which do not require the taking of either a knowledge or a driving skills test for renewal.

Sec. 28. Section 321.196, Code Supplement 2001, is amended to read as follows:

321.196 EXPIRATION OF LICENSE — RENEWAL.

1. 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~~ five 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. A licensee whose license is restricted due to vision or other physical deficiencies may be required to renew the license every two years. If a licensee is a foreign national who is temporarily present in this state, the license shall be issued only for the length of time the foreign national is authorized to be present as determined by the department, not to exceed two years.

2. 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.~~

3. For the purposes of this section, the birthday anniversary of a person born on February 29 shall be deemed to occur on March 1.

4. 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. 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.

5. ~~Any~~ A resident of Iowa holding a valid driver's license who is temporarily absent from the state, or incapacitated, may, at the time for renewal ~~for~~ of such license, apply to the department for a temporary extension of the license. The department upon receipt of the application shall, upon a showing of good cause, issue a temporary extension of the driver's license for a period not to exceed six months.

Sec. 29. Section 321.208, subsection 7, paragraphs a through c, Code Supplement 2001, are amended to read 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 ~~321.341 or~~ 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 ~~321.341 or~~ 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 ~~321.341 or~~ 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. 30. NEW SECTION. 321.235A ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES.

An electric personal assistive mobility device may be operated by a person at least sixteen years of age on sidewalks and bikeways in accordance with this section.

1. None of the following are required for operation of an electric personal assistive mobility device:

a. Licensure or registration of the electric personal assistive mobility device under this chapter.

- b. Possession of a driver's license or permit by the operator of the electric personal assistive mobility device.
- c. Proof of financial responsibility.
2. A person operating an electric personal assistive mobility device on a sidewalk or bike-way shall do all of the following:
 - a. Yield the right-of-way to pedestrians and human-powered devices.
 - b. Give an audible signal before overtaking and passing a pedestrian or human-powered device.
3. A person shall not operate an electric personal assistive mobility device at the times specified in section 321.384 unless the person or the electric personal assistive mobility device is equipped with a headlight visible from the front of the electric personal assistive mobility device and at least one red reflector visible from the rear of the electric personal assistive mobility device.
4. Violations of this section are punishable as a scheduled violation under section 805.8A, subsection 9A.

Sec. 31. Section 321.236, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 14. Regulating or prohibiting the operation of electric personal assistive mobility devices authorized pursuant to section 321.235A.

Sec. 32. Section 321.266, subsection 2, Code 2001, is amended to read as follows:

2. The driver of a vehicle involved in an accident resulting in injury to or death of any person, or total property damage to an apparent extent of one thousand dollars or more shall also, within seventy-two hours after the accident, forward a written report of the accident to the department. However, such report is not required when the accident is investigated by a law enforcement agency.

Sec. 33. Section 321.463, subsection 5, paragraph c, Code Supplement 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any provision of this section to the contrary, the maximum gross weight allowed to be carried on a noninterstate highway by a livestock vehicle with five axles, a minimum distance in feet between the centers of the first and fifth axles of sixty-one feet, and a minimum distance between the two rear axles of at least eight feet and one inch is eighty-six thousand pounds.

Sec. 34. Section 321A.17, subsection 4, Code 2001, is amended by striking the subsection.

Sec. 35. Section 321A.17, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9. This section does not apply to an individual whose privilege to operate a motor vehicle has been suspended or revoked when the period of suspension or revocation has ended and the individual provides evidence satisfactory to the department that the individual has established residency in another state. The individual may not apply for an Iowa driver's license for two years from the effective date of the person's last suspension or revocation unless proof of financial responsibility is filed with the department, as required by this section.

Sec. 36. Section 321E.8, Code Supplement 2001, is amended to read as follows:

321E.8 ANNUAL PERMITS.

Subject to the discretion and judgment provided for in section 321E.1, annual permits shall be issued in accordance with the following provisions:

1. Vehicles with indivisible loads, ~~having an overall width not to exceed twelve feet five inches~~ or mobile homes including appurtenances, having an overall width not to exceed twelve ~~sixteen~~ feet ~~five zero~~ inches, and an overall length not to exceed ~~seventy-five one hundred twenty~~

feet zero inches, an overall height not to exceed fifteen feet five inches, and a total gross weight not to exceed eighty thousand pounds, may be moved for unlimited distances. ~~The vehicle and load shall not exceed the height of thirteen feet ten inches and the total gross weight as prescribed in section 321.463. as follows:~~

a. Vehicles with indivisible loads, or mobile homes including appurtenances, having an overall width not to exceed twelve feet five inches, an overall length not to exceed one hundred twenty feet zero inches, and an overall height not to exceed thirteen feet ten inches may be moved for unlimited distances without route approval from the permitting authority.

b. Vehicles with indivisible loads, or mobile homes including appurtenances, having an overall width not to exceed fourteen feet six inches, an overall length not to exceed one hundred twenty feet zero inches, and an overall height not to exceed fifteen feet five inches may be moved on the interstate highway system and primary highways with more than one lane traveling in each direction for unlimited distances and no more than fifty miles from the point of origin on all other highways without route approval from the permit issuing authority.

c. All other vehicles with indivisible loads operating under this subsection shall obtain route approval from the permitting authority.

d. Vehicles with indivisible loads may operate under an all systems permit in compliance with paragraph "a", "b", or "c".

2. ~~Vehicles with indivisible loads, having an overall width not to exceed thirteen feet five inches or mobile homes, including appurtenances, having an overall width not to exceed 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 fifty-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. Vehicles with indivisible loads operating under the permit provisions of this subsection may operate under the permit provisions of subsection 1 provided the vehicle and load comply with the limitations described in subsection 1.~~

3. ~~Vehicles with indivisible loads, including mobile homes and factory-built structures, having an overall width not to exceed sixteen feet zero inches and an overall length not to exceed one hundred twenty feet zero inches may be moved under an annual or all-systems permit and must have a route specified by the issuing authority prior to the movement. However, vehicles with indivisible loads, including mobile homes and factory-built structures, with an overall width not exceeding fourteen feet six inches may exceed fifty miles under an annual and all-systems permit when prior approval for trip routing is obtained from the issuing authority. A vehicle and load being moved according to this paragraph shall not exceed fifteen feet five inches in height and shall not exceed the total gross weight as prescribed in section 321.463.~~

Sec. 37. Section 321E.14, Code Supplement 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, 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.

Sec. 38. Section 322.5, subsection 5, Code Supplement 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A temporary permit shall not be issued under this subsection to a nonresident manufacturer, distributor, or dealer unless the state in which the nonresident manufacturer, distributor, or dealer is licensed extends by reciprocity similar privileges to a manufacturer, distributor, or dealer licensed by this state.

Sec. 39. Section 322A.12, Code 2001, is amended to read as follows:
322A.12 SALE OR TRANSFER OF OWNERSHIP.

1. Notwithstanding the terms, provisions, or conditions of any an agreement or franchise, subject to the provisions of ~~subsection 2 of section 322A.11,~~ subsection 2, in the event of the sale or transfer of ownership of ~~the a~~ franchisee's dealership by sale or transfer of the business or by stock transfer or in the event of a change in the executive management of ~~the a~~ franchisee's dealership, the franchiser shall give effect to ~~such a~~ the change in the franchise unless the transfer of the franchisee's license under chapter 322 is denied or the new owner is unable to obtain a license under said ~~that~~ chapter, ~~as the case may be.~~

2. Notwithstanding the terms, provisions, or conditions of an agreement or franchise, the sale or transfer, or the proposed sale or transfer, of a franchisee's dealership, or the change or proposed change in the executive management of a franchisee's dealership shall not make applicable any right of first refusal of the franchiser.

Sec. 40. Section 326.10A, Code 2001, is amended to read as follows:
326.10A PAYMENT BY CHECK.

The department shall accept payment of fees under this chapter by personal or corporate check. The fee shall be deemed to have been paid upon receipt of the check. ~~However, the department shall not issue plates, stickers or other identification of vehicles subject to proportional registration until sufficient time has elapsed to ensure that payment of the check has cleared the bank upon which it is drawn. If the check is not honored, all fees and penalties shall accumulate as if the fee was not paid. After appropriate warning from the department, the registration account shall be suspended, collection pursued, and the delinquent registration fees shall become a debt due the state of Iowa. After a dishonored check has been received from an applicant, payments submitted by the applicant during the following year must be made with guaranteed funds.~~

Sec. 41. Section 326.11, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Vehicles acquired by a fleet owner after the commencement of the registration year and subsequently added to the fleet shall be prorated by applying the mileage percentage used in the original application for such fleet for such registration period to registration fees due under chapter 321 ~~but in no case less than that required by section 326.10.~~ A supplemental report ~~An application for registration shall be filed with the department not later than ten days after such addition to the fleet pursuant to the provisions of chapter 321.~~

Sec. 42. Section 326.12, Code 2001, is amended to read as follows:

326.12 VEHICLES DELETED — REGISTRATION TRANSFERRED.

Fleet owners who delete commercial vehicles displaying Iowa base plates from the fleet after the commencement of the registration year shall be allowed to transfer registration credit to a replacement vehicle in accordance with the provisions of this section. Iowa shall allow credit for non-Iowa based deleted vehicles only if the state designated by the fleet owner as the base state of the deleted vehicle permits transfer of registration credit to the replacement vehicle. ~~The fleet owner shall notify the department not later than ten days after such deletion and replacement.~~ Allowance of credit for deleted vehicles shall be subject to the following conditions:

1. ~~No additional registration fee shall be assessed on a replacement vehicle upon which the registration fee would have been the same as that for the deleted vehicle.~~ The fee for reissuance or registration credentials or for transfer of credentials shall be seven dollars.

2. No deletion shall be made nor credit allowed toward registration of a replacement vehicle unless the vehicle to be removed from service has been sold, junked, repossessed, foreclosed by mechanic's lien, title transferred by operation of law, or cancellation or expiration of a lease arrangement. The deleted vehicle shall have been disposed of on or before the date the replacement vehicle was acquired or in the possession of the applicant.

3. If a leased vehicle is to be deleted from the fleet and unexpired registration fees applied to the replacement vehicle, the lessee shall ~~certify to the department that refund~~ any unexpired registration fees paid by the lessor to the lessee ~~have been refunded to the lessor prior to the date of the supplemental application requesting credit for registration fees paid on the deleted vehicle on the transferred vehicle.~~

4. Credit shall be given for unexpired months.

5. The registration of the vehicle being added to the fleet is not delinquent under chapter 321.

Sec. 43. Section 326.14, Code 2001, is amended to read as follows:

326.14 PLATES AND RECEIPTS — REGISTRATION PERIOD AND RENEWAL — PENALTY.

1. The department shall issue a single registration plates plate and receipts registration receipt for each vehicle pursuant to apportionment agreements or arrangements provisions authorized under this chapter. The registration period for a vehicle registered pursuant to this chapter is from January 1 through December 31 of each year.

2. An application for renewal of registration shall be postmarked or received in the office of motor carrier services of the department no later than January 31. A five percent late filing penalty shall be assessed to an application for renewal postmarked or received on or after February 1, with an additional five percent penalty assessed the first of each month thereafter until the application is filed. The enforcement deadline for failure to display a registration plate and registration is March 15 at 12:01 a.m.

Sec. 44. Section 326.15, subsection 2, Code 2001, is amended to read as follows:

2. If the motor vehicle is removed from the apportioned fleet, the owner in whose name the motor vehicle was registered shall return the plates registration plate and registration receipt to the department and make a claim for refund. A refund shall not be allowed without documentation of the subsequent registration of the motor vehicle.

Sec. 45. Section 326.15, subsection 4, Code 2001, is amended by striking the subsection.

Sec. 46. Section 326.15, subsection 5, Code 2001, is amended to read as follows:

~~5. 4. If as a result of an audit the motor vehicle registration fees are found to have been paid in error, a claim for refund shall be filed with satisfactory evidence of the error the applicant shall be entitled to a refund.~~

Sec. 47. Section 326.15, unnumbered paragraph 4, Code 2001, is amended to read as follows:

Refunds of proportional registration fees shall be paid on the basis of unexpired complete calendar months remaining from the date the claim is filed with for refund, the registration plate, and the registration receipt are postmarked or received by the department. Refunds for trailers and semitrailers issued a multiyear registration plate shall be paid on the basis of unexpired complete registration years remaining from the date the claim is filed.

Sec. 48. Section 326.16, Code 2001, is amended to read as follows:

326.16 DELINQUENT FEES.

1. If the fees for ~~such~~ proportional registration are not paid to each contracting jurisdiction entitled thereto on the basis of the proportional registration application and supporting documents filed with the department by the fleet owner within a reasonable amount of time as determined by the department, the department shall ~~redetermine fees due this state~~ calculate late payment penalties. The fleet owner shall be notified by regular mail that fees and penalties are due and must be paid within thirty days of the invoice date. ~~If any additional fees due this state are not paid by and penalties are not received,~~ the fleet owner ~~within twenty days after the mailing to the owner of a notice shall be notified~~ by certified mail of the additional fees due, ~~such that the owner's registration in this state shall be canceled~~ has been suspended.

2. A five percent late payment penalty shall be assessed if an invoice is not paid within thirty days of the invoice date or within thirty days of January 31 of the registration year, whichever is later, with an additional five percent penalty assessed the first of each month thereafter until all fees and penalties are paid. In addition, the fees due for registration in this state shall be a debt due to the state of Iowa.

Sec. 49. Section 326.19, Code 2001, is amended to read as follows:

326.19 RECORDS PRESERVED.

~~Any owner complying with and granted proportional registration privileges shall preserve the records upon which applications are made for a period of four full years following the year for which the application was made. A registrant whose application for apportioned registration has been accepted shall preserve the records upon which the registration is based for a period of three years after the close of the registration year.~~ Upon request of the department, all fleet owners shall make all such records available to the department at the office of the director for audit as to accuracy of computation and payment. ~~If the owner does not produce such records when so requested, the owner shall pay the costs of an audit by a duly appointed representative of the department at the home office of the owner. An audit shall be conducted at the office of the registrant during normal business hours. However, if circumstances dictate, the registrant may be required to present the records at the office of motor carrier services of the department. If the registrant's operational records are not located in the base state and it is necessary for the base state to send auditors to the location where the records are normally kept, the base state may require the registrant to reimburse the per diem and travel expenses incurred by the auditors in performing the audit.~~ The department may enter into agreements with authorized agencies or other contracting states jurisdictions for joint audits of any ~~sueh~~ owner registrant.

Sec. 50. Section 326.22, Code Supplement 2001, is amended to read as follows:

326.22 OPERATIONAL LAWS OF IOWA APPLICABLE.

A nonresident registered vehicle is subject to all laws and rules governing the operation of such vehicle on the highways of this state. The registration ~~number~~ plates, stickers, or other identification assigned and furnished to any vehicle for the current registration year by the state in which the vehicle is registered shall be displayed on the vehicle substantially as provided in chapter 321 for vehicles registered pursuant to the provisions of this chapter. In addition, a fee set by the department to cover actual cost shall be charged for each plate, sticker, or other identification furnished for each vehicle registered in accordance with the provisions

of this section or extended reciprocity in accordance with the provisions of this section. A charge shall not be made for the initial registration receipt ~~or cab card~~ issued for each vehicle registered pursuant to an apportionment registration agreement. A fee set by the department to cover actual costs shall be charged for issuance of duplicate plates, stickers, ~~or other re-~~quired identification ~~required, duplicate or~~ registration receipts, ~~and duplicate cab cards.~~

Sec. 51. Section 326.23, subsection 2, Code Supplement 2001, is amended to read as follows:

2. The department may enter into agreements with owners and operators of truck stops to permit the owners and operators of truck stops to issue trip permits subject to any conditions imposed by the department. In addition to the trip permit fee, the owner or operator of a truck stop may charge an issuance fee of ~~not more than one dollar~~ which shall be disclosed to the purchaser. For the purposes of this section, "truck stop" means any place of business which sells fuel normally used by trucks and which is open twenty-four hours per day.

Sec. 52. Section 326.31, Code 2001, is amended to read as follows:

326.31 FILING INCORRECT INFORMATION — EFFECT.

~~Whenever~~ If the director has reason to believe that a fleet owner has filed incorrect information with the department ~~or the department of revenue and finance~~, for the purpose of reducing the fleet owner's obligation for registration fees or fuel taxes, the director may ~~cancel~~ re-~~voke~~ the apportioned registration privileges on all of the vehicles owned by ~~such~~ the person. ~~Any~~ A person who has such privileges ~~canceled~~ revoked shall be ~~subject to the payment of the full annual registration fee for all vehicles operated on the highways of this state required to register all of the vehicles owned by the person with the appropriate county treasurer for a period of at least~~ no less than one year and no more than five years thereafter. ~~The director of revenue and finance shall co-operate with the department~~ may use all reports pertaining to the registration fees and motor fuel taxes in ascertaining the accuracy of ~~all~~ reports filed pertaining to registration fees and motor fuel taxes.

~~Any~~ A person whose privileges are ~~canceled~~ revoked may request an administrative hearing of said action ~~before the department of inspections and appeals~~ in accordance with chapter 17A, and during the period pending the hearing the apportioned registration privileges shall be reinstated if the fleet owner posts security with the department ~~of transportation~~ in an amount sufficient to pay ~~such~~ the full annual fees if an adverse decision is rendered at the hearing. At such hearing the fleet owner shall have the burden of proof as to the accuracy of any report filed by the fleet owner with the department ~~of transportation or the department of revenue and finance~~. Judicial review of any decision reached at the administrative hearing may be sought in accordance with the terms of the Iowa administrative procedure Act.

Sec. 53. Section 805.8A, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE VIOLATIONS. For violations under section 321.235A, the scheduled fine is fifteen dollars.

Sec. 54. Sections 326.10 and 326.45, Code 2001, are repealed.

Sec. 55. EFFECTIVE DATE. The following provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The provisions amending sections 321.182, 321.190, and 321.196, relating solely to the issuance of a driver's license or nonoperator's identification card to foreign nationals.
2. The provision amending section 321.463, relating to the maximum gross weight allowed to be carried on a noninterstate highway by certain livestock vehicles.
3. The provision amending section 321E.8, relating to annual permits.

Approved April 4, 2002

CHAPTER 1064

ANATOMICAL GIFTS

S.F. 2195

AN ACT relating to the uniform anatomical gift Act including the document of gift, the release of identifying information, donors other than the subject of the donation, and immunity provisions.

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

Section 1. Section 142C.2, subsection 4, Code Supplement 2001, is amended to read as follows:

4. "Document of gift" means a card signed by an individual donor, a written statement attached to or imprinted or noted on a driver's license or nonoperator's identification card, an entry in a donor registry, a donor's will, or any other written document used by a donor to make an anatomical gift.

Sec. 2. Section 142C.2, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Donor registry" means the statewide organ and tissue donor registry established pursuant to section 142C.18 or a similar registry.

Sec. 3. Section 142C.3, subsections 2, 3, and 12, Code 2001, are amended to read as follows:

2. An anatomical gift may be made only by completion of a document of gift or as otherwise provided in this section. If the prospective donor is a minor fourteen through seventeen years of age, to be valid, a document of gift shall be signed by the minor and the minor's parent or legal guardian. If the document of gift requires the signature of the donor, but the donor is unable to sign the document, the document of gift shall be signed by another individual and by two witnesses, all of whom sign at the direction and in the presence of the donor, the other individual, and the two witnesses. The document of gift, including an entry in a donor registry, shall provide certification that the document has been executed in the prescribed manner.

3. If a donor indicates the wish to become a donor, pursuant to section 321.189, and the indication is attached to or imprinted or noted on an individual's driver's license, or nonoperator's identification card, or if a donor indicates the wish to become a donor via an entry in a donor registry and the entry is certified as being executed in the prescribed manner, the document, including an entry in a donor registry, shall be considered an expression of intent for the purposes of this section a valid document of gift.

12. A document of gift may be in the form of a specific donor card such as an eye donor card, a uniform donor card, a driver's license, a nonoperator's identification card, an entry in a donor registry, a will, or any other written document executed pursuant to this chapter. A uniform donor card shall include the options of donating any and all parts, or any specific part or parts. A uniform donor card may, but is not required to be, in the following form:

UNIFORM DONOR CARD

I,, have made a commitment to be an anatomical gift donor.

I wish to donate the following:

..... Any needed
part

..... Only the
following part

Donor Signature

.....
Date

Sec. 4. Section 142C.3, subsection 8, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

8. A document of gift that is not revoked by the donor prior to the donor's death does not require the consent or concurrence of any other person after the donor's death and is sufficient legal authority, following the donor's death, for the removal of any part donated under the document of gift, without the consent or concurrence of any other person. A person, including but not limited to a family member, a guardian, an attorney in fact named under a durable power of attorney for health care, or an executor of the donor's estate, is not authorized to and shall not revoke or in any way supersede a document of gift that is not revoked by the donor prior to the donor's death.

Sec. 5. Section 142C.4, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. A person in a prior class is available, in person or by telephone contact, at the time of the death of the decedent to make an anatomical gift.

Sec. 6. Section 142C.6, subsection 2, Code 2001, is amended to read as follows:

2. If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after the death of the donor. The document of gift, or a copy, may be deposited in any hospital, organ procurement organization, bank or storage organization, or donor registry office that accepts the document of gift for safekeeping or for the facilitation of procedures after the death of the donor. If a document is deposited by a donor in a hospital, donor registry, or bank or storage organization, the hospital or bank or storage organization may forward the document to an organ procurement organization which will retain the document for facilitating procedures following the death of the donor. Upon request of a hospital, physician, or surgeon, upon or after the donor's death, the person in possession of the document of gift may allow the hospital, physician, or surgeon to examine or copy the document of gift.

Sec. 7. Section 142C.7, Code 2001, is amended to read as follows:

142C.7 CONFIDENTIAL INFORMATION.

A hospital, licensed or certified health care professional, pursuant to chapter 148, 148C, 150A, or 152, or medical examiner may release patient information to an organ procurement organization, donor registry, or bank or storage organization as part of a referral or retrospective review of the patient as a potential donor. Additionally, a medical examiner or a medical examiner's designee, peace officer, fire fighter, or emergency medical care provider may release an individual's identifying information to an organ procurement organization, donor registry, or bank or storage organization to determine if the individual is a donor. Any information regarding a patient, including the patient's identity, however, constitutes confidential medical information and under any other circumstances is prohibited from disclosure without the written consent of the patient or the patient's legal representative.

Sec. 8. Section 142C.11, subsection 3, Code 2001, is amended to read as follows:

3. A hospital, funeral establishment, health care professional licensed or certified pursuant to chapter 148, 148C, 150A, or 152, a medical examiner, or a medical examiner's designee, technician, enucleator, peace officer, fire fighter, emergency medical care provider, funeral director, or other person, who complies with this chapter in good faith or with the applicable anatomical gift law of another state, or who attempts in good faith to comply, is immune from any liability, civil or criminal, which might result from the making or acceptance of an anatomical gift.

Approved April 4, 2002

CHAPTER 1065IOWA COMMUNICATIONS NETWORK —
ACCESS BY HOMELAND SECURITY OR DEFENSE FACILITIES

S.F. 2203

AN ACT providing for access to the Iowa communications network by homeland security or defense facilities.

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

Section 1. Section 8D.2, subsection 5, Code Supplement 2001, is amended to read as follows:

5. a. “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 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.

b. For the purposes of this chapter, “public agency” also includes any homeland security or defense facility established by the administrator of the emergency management division of the department of public defense or the governor or any facility connected with a security or defense system as required by the administrator of the emergency management division of the department of public defense or the governor. A facility that is considered a public agency pursuant to this paragraph shall be authorized to access the Iowa communications network strictly for homeland security communication purposes. Any utilization of the network that is not related to communications concerning homeland security is expressly prohibited.

Approved April 4, 2002

CHAPTER 1066ACQUISITION OR HOLDING OF AGRICULTURAL LAND —
PERMANENT RESIDENTS

S.F. 2272

AN ACT providing for agricultural land held by individuals lawfully admitted into the United States for permanent residence, and making penalties applicable.

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

Section 1. Section 567.1, subsection 5, Code 2001, is amended to read as follows:

5. “Nonresident alien” means an individual who is not a any of the following:

a. A citizen of the United States, ~~and who has not been classified as a~~

b. A person lawfully admitted into the United States for permanent resident alien residence by the United States immigration and naturalization service. An individual is lawfully admitted for permanent residence regardless of whether the individual’s lawful permanent resident status is conditional.

Approved April 4, 2002

CHAPTER 1067

INDIGENT DEFENSE

S.F. 2301

AN ACT relating to representation of indigent persons and the duties of the state public defender.

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

Section 1. Section 13B.4, subsection 1, Code 2001, is amended to read as follows:

1. The state public defender shall coordinate the provision of legal representation of all indigents under arrest or charged with a crime, seeking postconviction relief, against whom a contempt action is pending, in proceedings under chapter 229A, on appeal in criminal cases, on appeal in proceedings to obtain postconviction relief when ordered to do so by the district court in which the judgment or order was issued, and on a reopening of a sentence proceeding, and may provide for the representation of indigents in proceedings instituted pursuant to ~~chapter 908 section 908.11~~. The state public defender shall not engage in the private practice of law.

Sec. 2. Section 13B.4, subsection 4, paragraph c, Code 2001, is amended to read as follows:

c. The state public defender may review any claim for payment of indigent defense costs and may take any of the following actions:

- (1) If the charges are appropriate and reasonable, approve the claim for payment.
- (2) Deny the claim, ~~if the claim is not timely filed.~~ under any of the following circumstances:
 - (a) If it is not timely.
 - (b) If it is not payable as an indigent defense claim under chapter 815.
 - (c) If it is not payable under the contract between the claimant and the state public defender.
 - (d) If the appointment of the claimant was obtained without complying with section 814.11, subsection 6, or section 815.10, subsection 5.
- (3) Request additional information or return the claim to the attorney, if the claim is incomplete.
- (4) If any portion of the claim is excessive, notify the attorney that the claim is excessive and will be reduced to an amount which is not excessive, and reduce and approve the balance of the claim.
- (5) If any portion of the claim is not payable within the scope of appointment of the attorney, notify the attorney that a portion of the claim is not within the scope of appointment and is not payable, deny those portions of the claim that are not payable, and approve the balance of the claim.

Sec. 3. Section 13B.4, subsection 4, paragraph d, Code 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

d. Notwithstanding chapter 17A, the attorney may seek review of any action or intended action denying or reducing any claim by filing a motion with the court with jurisdiction over the original appointment for review.

- (1) The motion must be filed within twenty days of any action taken by the state public defender.
- (2) The state public defender shall be provided with at least ten days' notice of any hearing on the motion.
- (3) The state public defender or the attorney may participate by telephone. If the state public defender participates by telephone, the state public defender shall be responsible for initiating and paying for all telephone charges.
- (4) The filing of a motion shall not delay the payment of the amount approved by the state public defender.

(5) If a claim or portion of the claim is denied, the action of the state public defender shall be affirmed unless the action conflicts with an administrative rule or the law.

(6) If the claim is reduced for being excessive, the attorney shall have the burden to establish by a preponderance of the evidence that the amount of compensation and expenses is reasonable and necessary to competently represent the client.

Sec. 4. Section 13B.4, subsection 5, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

5. In reviewing a claim for compensation submitted by an attorney who had been retained or agreed to represent an indigent person prior to appointment, the state public defender may consider any moneys earned or paid to the attorney prior to the appointment in determining whether the claim is reasonable and necessary or excessive. The attorney shall provide the state public defender with a copy of any representation agreement, and information on any moneys earned or paid to the attorney prior to the appointment.

Sec. 5. Section 13B.4, subsection 7, Code 2001, is amended by striking the subsection.

Sec. 6. Section 13B.8, subsection 1, unnumbered paragraph 2, Code 2001, is amended by striking the unnumbered paragraph.

Sec. 7. Section 13B.8, subsection 4, Code 2001, is amended to read as follows:

4. The state public defender shall provide separate and suitable office space, furniture, equipment, computers, computer networks, support staff, and supplies for the each office of the local public defender out of funds appropriated to the ~~department~~ state public defender for this purpose.

Sec. 8. Section 13B.8, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An employee of a local public defender office shall not have access to any confidential client information in any other local public defender office, and the state public defender shall not have access to such confidential information.

Sec. 9. Section 13B.9, subsection 2, Code 2001, is amended to read as follows:

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

Sec. 10. Section 13B.9, subsection 3, Code 2001, is amended to read as follows:

3. The local public defender shall handle every case to which the local public defender is appointed if the local public defender can reasonably handle the case. The local public defender shall be responsible for assigning cases to individual attorneys within the local public defender office and for making decisions concerning cases in which the local public defender has been appointed.

Sec. 11. Section 13B.9, subsection 4, Code 2001, is amended to read as follows:

4. If a conflict of interest arises or if the local public defender is unable to handle a case because of a temporary overload of cases, the local public defender shall return the case to the court. ~~The court shall first appoint a contract attorney. Appointments by the court shall be on a rotational or equalization basis considering the experience of the attorney and the difficulty of the case.~~ If the case is returned and the state public defender has filed a successor

designation, the court shall appoint the successor designee. If there is no successor designee on file, the court shall make the appointment pursuant to section 815.10.

Sec. 12. Section 13B.9, subsection 5, Code 2001, is amended by striking the subsection.

Sec. 13. Section 22.7, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 43. Information provided to the court and state public defender pursuant to section 13B.4, subsection 5; section 814.11, subsection 6; or section 815.10, subsection 5.

Sec. 14. Section 814.11, Code 2001, is amended to read as follows:

814.11 INDIGENT'S RIGHT TO COUNSEL.

1. An indigent defendant person is entitled to appointed counsel on the appeal of all indictable offenses cases if the person is entitled to appointment of counsel under section 815.9.

2. The If the appeal involves an indictable offense or denial of postconviction relief, the appointment shall be made to the state appellate defender unless the state appellate defender is unable to handle the case due to a conflict of interest or because of a temporary overload of cases.

3. If the appeal is other than an indictable offense or denial of postconviction relief or if the state appellate defender is unable to handle the case, the court shall appoint an attorney who has a contract with the state public defender to handle such an appeal.

4. If the court determines that no contract attorney is available to handle the appeal, the court may appoint a noncontract attorney who has agreed to handle the case, but the. The order of appointment shall include a specific finding that no contract attorney was available.

5. The appointment of noncontract attorneys an attorney shall be on a rotational or equalization basis, considering the experience of the attorney and the difficulty of the case.

6. An attorney who has been retained or has agreed to represent a person on appeal and subsequently applies to the court for appointment to represent that person on appeal because the person is indigent shall notify the state public defender of the application. Upon the filing of the application, the attorney shall provide the state public defender with a copy of any representation agreement, and information on any moneys earned or paid to the attorney prior to the appointment.

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

Sec. 15. Section 815.9, subsection 8, Code 2001, is amended to read as follows:

8. If a person is granted an appointed attorney or ~~is receiving~~ has received legal assistance in accordance with this section and the person is employed, the person shall execute an assignment of wages. An order for assignment of income, in a reasonable amount to be determined by the court, shall also be entered by the court. The state public defender shall prescribe forms for use in wage assignments and court orders entered under this ~~section~~ subsection.

Sec. 16. Section 815.10, Code 2001, is amended to read as follows:

815.10 APPOINTMENT OF COUNSEL BY COURT.

1. The court, for cause and upon its own motion or upon application by an indigent person or a public defender, shall appoint the state public defender's designee pursuant to section 13B.4, ~~or an attorney pursuant to section 13B.9,~~ to represent an indigent person at any stage

of the criminal, postconviction, contempt, commitment under chapter 229A, or juvenile proceedings or on appeal of any criminal, postconviction, contempt, commitment under chapter 229A, or juvenile action in which the indigent person is entitled to legal assistance at public expense. However, in juvenile cases, the court may directly appoint an existing nonprofit corporation established for and engaged in the provision of legal services for juveniles. An appointment shall not be made unless the person is determined to be indigent under section 815.9. Only one attorney shall be appointed in all cases, except that in class "A" felony cases the court may appoint two attorneys.

2. An attorney other than a public defender who is appointed by the court under this section shall apply to the state public defender for compensation and for reimbursement of costs incurred. The amount of compensation due shall be determined in accordance with any indigent defense contract or pursuant to section 815.7. If the state public defender or the state public defender's designee is unable to represent an indigent person, the court shall appoint an attorney who has a contract with the state public defender to represent the person.

3. The state public defender shall adopt rules which specify the information which shall be included with all claims for compensation submitted by court-appointed attorneys under this section. The rules shall require that a court-appointed attorney shall obtain court approval of a claim prior to exceeding the fee limitations established pursuant to section 13B.4. However, a court-appointed attorney may request court approval after exceeding a fee limitation if good cause is shown. The order approving a claim that exceeds the fee limitation shall be included in the information submitted under this section. If the information required under this section and the rules of the state public defender is not submitted, the claim may be denied until the information is provided. If the information required under this section and the rules of the state public defender is submitted with the claim, the state public defender may approve reasonable and proper compensation to the court-appointed attorney in the manner provided in the rules. If the court determines that no contract attorney is available to represent the person, the court may appoint a noncontract attorney. The order of appointment shall include a specific finding that no contract attorney was available.

4. The appointment of an attorney shall be on a rotational or equalization basis, considering the experience of the attorney and the difficulty of the case.

5. An attorney who has been retained or has agreed to represent a person and subsequently applies to the court for appointment to represent that person because the person is indigent shall notify the state public defender of the application. Upon the filing of the application, the attorney shall provide the state public defender with a copy of any representation agreement, and information on any moneys earned or paid to the attorney prior to the appointment.

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

Sec. 17. NEW SECTION. 815.10A CLAIMS FOR COMPENSATION.

1. An attorney other than a public defender who has been appointed by the court under this chapter must apply to the state public defender for compensation and reimbursement of expenses incurred in the representation of an indigent person.

2. An attorney shall obtain court approval prior to exceeding the fee limitations established by the state public defender pursuant to section 13B.4. An attorney may exceed the fee limitations, if good cause is shown. An attorney may obtain court approval after exceeding the fee limitations, if good cause is shown. The order approving an application to exceed the fee limi-

tations shall be effective from the date of filing the application unless the court order provides an alternative effective date. Failure to timely file an application to exceed a fee limitation after exceeding the fees shall not constitute good cause. The application and the court order approving the application to exceed fee limitations shall be submitted with any claim for compensation.

3. If the information is not submitted as required under this section and under the rules of the state public defender, the claim for compensation may be denied until the information is provided. Upon submitting the required information, the state public defender may approve reasonable and necessary compensation, as provided for in the administrative rules and the law.

Sec. 18. Section 815.11, Code 2001, is amended to read as follows:

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

Costs incurred under chapter 229A, 665, or 822, or section 232.141, subsection 3, paragraph "c", or sections 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, and 815.10, ~~or the rules of criminal procedure or 908.11~~ on behalf of an indigent shall be paid from funds appropriated by the general assembly to the office of the state public defender in the department of inspections and appeals for those purposes. Costs incurred under other provisions of the Code or administrative rules are not payable from these funds.

Sec. 19. NEW SECTION. 815.14 FEE FOR PUBLIC DEFENDER.

When determining the amount of restitution for each case under section 910.3, the expense of the public defender shall be calculated at the same hourly rate of compensation specified under section 815.7. However, the expense of the public defender shall not exceed the fee limitations established in section 13B.4.

Sec. 20. Section 908.2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

An officer making an arrest of an alleged parole violator shall take the arrested person before a magistrate without unnecessary delay for an initial appearance. At that time the alleged parole violator shall be furnished with a written notice of the claimed violation, ~~shall be advised of the right to appointed counsel under rule 26 of the rules of criminal procedure,~~ and shall be given notice that a parole revocation hearing will take place and that its purpose is to determine whether the alleged parole violation occurred and whether the alleged violator's parole should be revoked.

Sec. 21. Section 908.4, Code 2001, is amended to read as follows:

908.4 PAROLE REVOCATION HEARING.

1. The parole revocation hearing shall be conducted by an administrative parole and probation judge who is an attorney. The revocation hearing shall determine the following:

1. a. Whether the alleged parole violation occurred.

2. b. Whether the violator's parole should be revoked.

2. The administrative parole and probation judge shall make a verbatim record of the proceedings. The alleged violator shall not have the right to appointed counsel, shall be informed of the evidence against the violator, shall be given an opportunity to be heard, shall have the right to present witnesses and other evidence, and shall have the right to cross-examine adverse witnesses, except if the judge finds that a witness would be subjected to risk or harm if the witness's identity were disclosed. The revocation hearing may be conducted electronically.

Approved April 4, 2002

CHAPTER 1068**GAMES OF SKILL OR CHANCE AND RAFFLES***H.F. 2109*

AN ACT relating to the regulation of games of skill or chance and raffles conducted for fundraising by charitable, religious, educational, public, civic, or patriotic organizations, or other entities, or between individuals.

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

Section 1. Section 99B.5, subsection 1, paragraph g, Code 2001, is amended to read as follows:

g. The actual retail value of any prize does not exceed ~~two hundred~~ one thousand dollars. If a prize consists of more than one item, unit, or part, the aggregate retail value of all items, units, or parts shall not exceed ~~two hundred~~ one thousand dollars. However, either a fair sponsor or a qualified organization, but not both, may hold one raffle per calendar year at which prizes having a combined value of more than ~~two hundred~~ one thousand dollars may be offered. If the prize is merchandise, its value shall be determined by the purchase price paid by the fair sponsor or qualified organization.

Sec. 2. Section 99B.5, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A licensee under this section may hold one real property raffle per calendar year at which the value of the real property may exceed ~~two hundred~~ one thousand dollars in lieu of the annual raffle authorized in subsection 1, paragraph "g", if all of the following requirements are met:

Sec. 3. Section 99B.7, subsection 1, paragraph d, Code 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

d. Cash prizes shall not be awarded in games other than bingo and raffles. The value of a prize shall not exceed ten thousand dollars and merchandise prizes shall not be repurchased. If a prize consists of more than one item, unit, or part, the aggregate value of all items, units, or parts shall not exceed ten thousand dollars. However, one raffle may be conducted per calendar year at which real property or one or more merchandise prizes having a combined value of more than ten thousand dollars may be awarded.

If a raffle licensee holds a statewide raffle license, the licensee may hold not more than eight raffles per calendar year at which real property or one or more merchandise prizes having a combined value of more than ten thousand dollars may be awarded. Each such raffle held under a statewide license shall be held in a separate county.

If a prize is merchandise, its value shall be determined by the purchase price paid by the organization or donor. If a prize is real property, the department shall conduct a special audit to verify compliance with the appropriate requirements of this chapter including all of the following requirements:

(1) The licensee has submitted a real property raffle license application and a fee of one hundred dollars to the department, has been issued a license, and prominently displays the license at the drawing area of the raffle.

(2) The real property was acquired by gift or donation or has been owned by the licensee for a period of at least five years.

(3) All other requirements of this section and section 99B.2 are met.

(4) Receipts from the raffle are kept in a separate financial account.

(5) A cumulative report for the raffle on a form determined by the department and one percent of gross receipts are submitted to the department within sixty days of the raffle drawing.

The one percent of the gross receipts shall be retained by the department to pay for the cost of the special audit.

Sec. 4. Section 99B.7, subsection 1, paragraph e, Code 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

e. The ticket price including any discounts for each game or raffle shall be the same for each participant.

Sec. 5. Section 99B.7, subsection 1, paragraph l, subparagraph (2), Code 2001, is amended by striking the subparagraph and inserting in lieu thereof the following:

(2) A ticket, coupon, or card shall not be used as a door prize or given to a participant of a raffle, game of bingo, or game of chance if the use of the ticket, coupon, or card would change the odds of winning for participants of the raffle, game of bingo, or game of chance.

Sec. 6. Section 99B.7, subsection 1, paragraph m, subparagraph (1), Code 2001, is amended to read as follows:

(1) The organization is ~~eligible for exemption~~ ~~exempt~~ from federal income taxes under section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code as defined in section 422.3, the organization is an agency or instrumentality of the United States government, this state, or a political subdivision of this state, or, in lieu of eligibility for ~~an~~ exemption from federal income taxes, the organization is a parent-teacher organization or booster club that is recognized as a fund-raiser and supporter for a school district organized pursuant to chapter 274 or for a school within the school district, in a notarized letter signed by the president of the board of directors, the superintendent of the school district, or a principal of a school within that school district.

Sec. 7. Section 99B.7, subsection 1, paragraph o, Code 2001, is amended to read as follows:

o. Except as provided in subsection 6 Z, paragraph "a", a person shall not conduct, promote, administer, or assist in the conducting, promoting or administering of a bingo occasion, unless the person regularly participates in activities of the qualified organization other than conducting bingo occasions or participates in an educational, civic, public, charitable, patriotic, or religious organization to which the net receipts are dedicated by the qualified organization.

Sec. 8. Section 99B.7, subsection 1, paragraphs q and r, Code 2001, are amended by striking the paragraphs.

Sec. 9. Section 99B.7, subsection 3, paragraph a, Code 2001, is amended to read as follows:

a. A person wishing to conduct games and raffles pursuant to this section as a qualified organization shall submit an application and a license fee of one hundred fifty dollars. The annual license fee for a statewide raffle license shall be one hundred fifty dollars. However, upon submission of an application accompanied by a license fee of fifteen dollars, a person may be issued a limited license to conduct all games and raffles pursuant to this section at a specified location and during a specified period of fourteen consecutive calendar days. In addition, a qualified organization may be issued a limited license to conduct raffles pursuant to this section for a period of ninety days for a license fee of forty dollars or for a period of one hundred eighty days for a license fee of seventy-five dollars. ~~A limited license shall not be issued more than once during any calendar year to the same person, or for the same location.~~ For the purposes of this paragraph, a limited license is deemed to be issued on the first day of the period for which the license is issued.

Sec. 10. Section 99B.7, subsection 7, paragraphs a and c, Code 2001, are amended by striking the paragraphs.

Sec. 11. Section 99B.8, subsection 1, paragraphs c and e, Code 2001, are amended to read as follows:

c. No participant pays any consideration of any nature, either directly or indirectly, to participate in the games ~~or raffles~~.

e. The person conducting the game ~~or raffle~~ receives no consideration, either directly or indirectly, other than good will.

Sec. 12. Section 99B.8, subsections 2 and 5, Code 2001, are amended to read as follows:

2. The other provisions of this section notwithstanding, if the games ~~or raffles~~ are conducted by a qualified organization also licensed under section 99B.7, the sponsor may charge an entrance fee or a fee to participate in the games ~~or raffles~~, and participants may wager their own funds and pay an entrance or other fee for participation, provided that a participant may not expend more than a total of two hundred fifty dollars for all fees and wagers. The provisions of section 99B.7, subsection 3, paragraphs "b" and "c", shall apply to games ~~and raffles~~ conducted by a qualified organization pursuant to this section.

5. However, notwithstanding subsection 1, paragraphs "b" and "c", if the games ~~or raffles~~ are conducted by a qualified organization issued a license pursuant to subsection 3, the sponsor may charge an entrance fee to a participant and the sponsor need not have a bona fide social relationship with the participant.

Sec. 13. Section 99B.11, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. Athletic or sporting contests, leagues or tournaments, rodeos, horse shows, golf, bowling, trap or skeet shoots, fly casting, tractor pulling, rifle, pistol, musket, muzzle-loader, pool, darts, archery and horseshoe contests, leagues or tournaments.

Sec. 14. Section 99B.12, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. Card and parlor games, including but not limited to poker, pinochle, pitch, gin rummy, bridge, euchre, hearts, cribbage, dominoes, checkers, chess, backgammon, pool and darts. However, it shall be unlawful gambling for any person to engage in bookmaking, or to play any punchboard, pushcard, pull-tab or slot machine, or to play craps, chuck-a-luck, roulette, klondike, blackjack, chemin de fer, baccarat, faro, equality, three-card monte or any other game, except poker, which is customarily played in gambling casinos and in which the house customarily provides a banker, dealer or croupier to operate the game, or a specially designed table upon which to play same.

Sec. 15. Section 99B.18, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Games of skill, games of chance, and card games ~~and raffles~~ may be conducted on premises either licensed or unlicensed and no license fee shall be required ~~therefor provided~~ if a bona fide social, employment, trade or professional association relationship exists between the sponsors and the participants and the participants pay no consideration of any nature, either directly or indirectly, to participate in the games ~~or raffles~~, and only play money or other items of no intrinsic value which may be wagered are provided to the participant free, and the sponsor conducting the game ~~or raffle~~ receives no consideration, either directly or indirectly, other than goodwill.

Approved April 4, 2002

CHAPTER 1069

INTERNAL REVENUE CODE REFERENCES AND INCOME TAX PROVISIONS

H.F. 2116

AN ACT updating the Iowa Code references to the Internal Revenue Code, repealing an adjustment to net income for capital gains from installment sales, relating to reciprocal income tax agreements with other states, providing that refunds from the federal rebate are not taxable, correcting a reference in the innocent spouse statute, 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 Supplement 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, ~~2001~~ 2002.

Sec. 2. Section 15A.9, subsection 8, paragraph e, Code Supplement 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, ~~2001~~ 2002.

Sec. 3. Section 422.3, subsection 5, Code Supplement 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, ~~31, 2001~~ 2002, whichever is applicable.

Sec. 4. Section 422.7, subsection 37, Code Supplement 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The adjustment to net income provided in this subsection is repealed for tax years beginning on or after January 1, 2002. However, to the extent that a taxpayer using the accrual method of accounting reported the entire capital gain from the sale or exchange of property on the Iowa return for the tax year beginning in the 2001 calendar year and the capital gain was reported on the installment method on the federal income tax return, any additional installment from the capital gain reported for federal income tax purposes is not to be included in net income in tax years beginning on or after January 1, 2002.

Sec. 5. Section 422.8, subsection 5, Code 2001, is amended to read as follows:

5. The director may, in accordance with the provisions of this subsection, and when cost-efficient, administratively feasible, and of mutual benefit to both states, enter into reciprocal agreements with tax administration agencies of other states to further tax administration and eliminate duplicate withholding by exempting from Iowa taxation income earned from personal services in Iowa by residents of another state, if the other state provides a tax exemption

for the same type of income earned from personal services by Iowa residents in the other state. For purposes of this subsection, "income earned from personal services" means wages, salaries, commissions, and tips, and earned income from other sources. This subsection does not authorize the department to withhold taxes on deferred compensation payments, pension distributions, and annuity payments when paid to a nonresident of the state of Iowa. All the terms of the agreements shall be described in the rules adopted by the department.

A reciprocal agreement entered into on or after the effective date of this Act with a tax administration agency of another state shall not take effect until such agreement has been authorized by a constitutional majority of each house of the general assembly and approved by the governor. A reciprocal agreement in effect on or after January 1, 2002, shall not be terminated by the state of Iowa unless the termination has been authorized by a constitutional majority of each house of the general assembly and approved by the governor. An amendment to an existing reciprocal agreement does not constitute a new agreement.

Sec. 6. Section 422.9, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 7. In determining the amount of deduction for federal income tax under subsection 1 or subsection 2, paragraph "b", for tax years beginning in the 2002 calendar year, the amount of the deduction for the tax year shall not be adjusted by the amount of the rate reduction credit received in the tax year to the extent that the credit is attributable to the rate reduction credit provided pursuant to the federal Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 106-16,³ and the amount of such credit shall not be taxable under this division.

Sec. 7. Section 422.10, subsection 3, Code Supplement 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, ~~2001~~ 2002.

Sec. 8. Section 422.21, unnumbered paragraph 7, Code 2001, is amended to read as follows:

If married taxpayers file a joint return or file separately on a combined return in accordance with rules prescribed by the director, both spouses are jointly and severally liable for the total tax due on the return, except when one spouse is considered to be an innocent spouse under criteria established pursuant to section 6013(e) ~~6015~~ of the Internal Revenue Code.

Sec. 9. Section 422.33, subsection 5, paragraph d, Code Supplement 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, ~~2001~~ 2002.

Sec. 10. Sections 1, 2, 3, 7, and 9 apply retroactively to January 1, 2001, for tax years beginning on or after that date.

Sec. 11. Sections 4 and 8 apply retroactively to January 1, 2002, for tax years beginning on or after that date.

³ Pub. L. No. "107-16" probably intended

Sec. 12. The termination provisions of section 5 of this Act apply retroactively to the termination of reciprocal agreements in effect on or after January 1, 2002.

Sec. 13. Section 6 applies retroactively to January 1, 2002, for tax years beginning in the 2002 calendar year.

Sec. 14. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 4, 2002

CHAPTER 1070

REGULATION OF OUTDOOR ADVERTISING DEVICES

H.F. 2317

AN ACT relating to restrictions on advertising devices placed along interstate highways and providing a delayed effective date.

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

Section 1. Section 306B.2, subsection 4, Code 2001, is amended to read as follows:

4. Advertising devices ~~which that~~ are located in ~~commercial or industrial zones traversed by segments of the interstate system within the boundaries of incorporated municipalities as such boundaries existed September 21, 1959, where the use of property adjacent to the interstate system is subject to municipal regulation and control, or other areas where the land on September 21, 1959, was clearly established by law for industrial or commercial purposes~~ areas zoned and used for commercial or industrial purposes under authority of law, regulation, or ordinance of this state or a political subdivision of this state. For purposes of this subsection, "areas zoned and used for commercial or industrial purposes" means an area zoned for commercial or industrial purposes in accordance with chapter 414, in the case of city zoning, or in accordance with chapter 335, in the case of county zoning, in which one or more commercial or industrial activities, as defined under the city or county zoning ordinance, are located.

Sec. 2. EFFECTIVE DATE — RULES. Section 1 of this Act, amending Code section 306B.2, subsection 4, takes effect July 1, 2004. However, the state department of transportation shall adopt rules prior to July 1, 2004, to be effective July 1, 2004, regarding approval by the department of the erection or maintenance of advertising devices along interstate highways pursuant to Code section 306B.2, subsection 4, as amended by this Act. Such rules shall require that advertising devices erected or maintained pursuant to section 306B.2, subsection 4, as amended by this Act, be in compliance with the provisions of the federal Highway Beautification Act of 1965, 23 U.S.C. § 131.

Approved April 4, 2002

CHAPTER 1071
ELECTION MISCONDUCT
H.F. 2409

AN ACT relating to election misconduct and providing criminal penalties.

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

DIVISION I¹
ELECTION MISCONDUCT AND PENALTIES

Section 1. NEW SECTION. 39A.1 TITLE AND PURPOSE — ELECTION OFFICIALS DEFINED.

1. This chapter may be cited and referred to as the “Election Misconduct and Penalties Act”.
2. The purpose of this chapter is to identify actions which threaten the integrity of the election process and to impose significant sanctions upon persons who intentionally commit those acts. It is the intent of the general assembly that offenses with the greatest potential to affect the election process be vigorously prosecuted and strong punishment meted out through the imposition of felony sanctions which, as a consequence, remove the voting rights of the offenders. Other offenses are still considered serious, but based on the factual context in which they arise, they may not rise to the level of offenses to which felony penalties attach. The general assembly also recognizes that instances may arise in which technical infractions of chapters 39 through 53 may occur which do not merit any level of criminal sanction. In such instances, administrative notice from the state or county commissioner of elections is sufficient. Mandates or proscriptions in chapters 39 through 53 which are not specifically included in this chapter shall be considered to be directive only, without criminal sanction.
3. For the purposes of this chapter, “election officials” include the state commissioner, the county commissioner, employees of the state commissioner and county commissioner who are responsible for carrying out functions or duties under chapters 39 through 53, and precinct election officials appointed pursuant to sections 49.12, 49.14, 49.18, and 53.23.

Sec. 2. NEW SECTION. 39A.2 ELECTION MISCONDUCT IN THE FIRST DEGREE.

1. A person commits the crime of election misconduct in the first degree if the person willfully commits any of the following acts:
 - a. **REGISTRATION FRAUD.** Produces, procures, submits, or accepts a voter registration application that is known by the person to be materially false, fictitious, forged, or fraudulent.
 - b. **VOTE FRAUD.**
 - (1) Destroys, delivers, or handles an application for a ballot or an absentee ballot with the intent of interfering with the voter’s right to vote.
 - (2) Produces, procures, submits, or accepts a ballot or an absentee ballot, or produces, procures, casts, accepts, or tabulates a ballot that is known by the person to be materially false, fictitious, forged, or fraudulent.
 - (3) Votes or attempts to vote more than once at the same election, or votes or attempts to vote at an election knowing oneself not to be qualified.
 - (4) Makes a false or untrue statement in an application for an absentee ballot or makes or signs a false certification or affidavit in connection with an absentee ballot.
 - (5) Otherwise deprives, defrauds, or attempts to deprive or defraud the citizens of this state of a fair and impartially conducted election process.
 - c. **DURESS.** Intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, a person to do any of the following:
 - (1) To register to vote, to vote, or to attempt to register to vote.
 - (2) To urge or aid a person to register to vote, to vote, or to attempt to register to vote.
 - (3) To exercise a right under chapters 39 through 53.

¹ There is no Division II in this bill as enacted

d. BRIBERY.

(1) Pays, offers to pay, or causes to be paid money or any other thing of value to a person to influence the person's vote.

(2) Pays, offers to pay, or causes to be paid money or any other thing of value to an election official conditioned on some act done or omitted to be done contrary to the person's official duty in relation to an election.

(3) Receives money or any other thing of value knowing that it was given in violation of subparagraph (1) or (2).

e. CONSPIRACY. Conspires with or acts as an accessory with another to commit an act in violation of paragraphs "a" through "d".

2. Election misconduct in the first degree is a class "D" felony.

Sec. 3. NEW SECTION. 39A.3 ELECTION MISCONDUCT IN THE SECOND DEGREE.

1. A person commits the crime of election misconduct in the second degree if the person willfully commits any of the following acts:

a. INTERFERENCE WITH VALIDITY OF ELECTION.

(1) Possesses an official ballot outside of the voting room unless the person is an election official or other person authorized by law to possess such a ballot.

(2) Makes or possesses a counterfeit of an official election ballot.

(3) Solicits or encourages a person to vote in an election knowing that person is not qualified to vote in the election.

b. ACTIONS BY ELECTION OFFICIAL. As an election official:

(1) Refuses to register a person who is entitled to register to vote under chapter 48A.

(2) Accepts a fee from an applicant applying for registration.

(3) While the polls are open, opens a ballot received from a voter, except as permitted by law.

(4) Marks a ballot by folding or otherwise so as to be able to recognize it.

(5) Attempts to learn how a voter marked a ballot.

(6) Causes a voter to cast a vote contrary to the voter's intention.

(7) Changes a ballot, or in any way causes a vote to be recorded contrary to the intention of the person casting that vote.

(8) Allows a person to do any of the acts proscribed by subparagraphs (1) through (7).

2. Election misconduct in the second degree is an aggravated misdemeanor.

Sec. 4. NEW SECTION. 39A.4 ELECTION MISCONDUCT IN THE THIRD DEGREE.

1. A person commits the crime of election misconduct in the third degree if the person willfully commits any of the following acts:

a. ELECTION DAY ACTS. Any of the following on election day:

(1) Loitering, congregating, electioneering, posting signs, treating voters, or soliciting votes, during the receiving of the ballots, either on the premises of a polling place or within three hundred feet of an outside door of a building affording access to a room where the polls are held, or of an outside door of a building affording access to a hallway, corridor, stairway, or other means of reaching the room where the polls are held. This subparagraph does not apply to the posting of signs on private property not a polling place, except that the placement of a sign that is more than ninety square inches in size on a motor vehicle, trailer, or semitrailer, or its attachment to a motor vehicle, trailer, or semitrailer parked on public property within three hundred feet of a polling place is prohibited.

(2) Interrupting, hindering, or opposing a voter while in or approaching the polling place for the purpose of voting.

(3) As a voter, submitting a false statement as to the voter's ability to mark a ballot.

(4) Interfering or attempting to interfere with a voter when the voter is inside the enclosed voting space, or when the voter is marking a ballot.

(5) Endeavoring to induce a voter to show how the voter marks or has marked a ballot.

(6) Marking, or causing in any manner to be marked, on a ballot, any character for the purpose of identifying such ballot.

b. ACTIONS BY ELECTION OFFICIAL. As an election official:

(1) Serving as a member of a challenging committee or observer under section 49.104, subsection 2, 5, or 6, while serving as a precinct election official at the polls.

(2) Failing to perform duties prescribed by chapters 39 through 53, or performing those duties in such a way as to hinder the object of the law.

(3) Disclosing the manner in which a person's ballot has been voted to anyone except as ordered by a court.

(4) Failing to carry out a duty with regard to access under chapter 22 to a public record that relates to an election or voter registration.

(5) Furnishing a voter with a ballot other than the proper ballot to be used at an election.

(6) Making or consenting to a false entry on the list of voters or poll books.

(7) Placing or permitting another election official to place anything other than a ballot into a ballot box as provided in section 49.85, or permitting a person other than an election official to place anything into a ballot box.

(8) Taking or permitting to be taken out of a ballot box a ballot deposited in the ballot box, except in the manner prescribed by law.

(9) Destroying or altering a ballot that has been given to a voter.

(10) Permitting a person to vote in a manner prohibited by law.

(11) Refusing or rejecting the vote of a voter qualified to vote.

(12) Wrongfully acting or refusing to act for the purpose of avoiding an election, or of rendering invalid a ballot cast from a precinct or other voting district.

(13) Having been deputized to carry the poll books of an election to the place where they are to be canvassed, failing to deliver them to such place, safe, with seals unbroken, and within the time specified by law.

c. MISCELLANEOUS OFFENSES.

(1) As a party committee member or a primary election officer or public officer upon whom a duty is imposed by chapter 43 or by a statute applicable to chapter 43, neglecting to perform any such duty, or performing any such duty in such a way as to hinder the object of the statute, or by disclosing to anyone, except as may be ordered by a court, the manner in which a ballot may have been voted.

(2) As a person who is designated pursuant to section 43.4 to report the results of a precinct caucus as it relates to the selection and reporting of delegates selected as part of the presidential nominating process or who is designated pursuant to section 43.4 to tabulate and report the number of persons attending the caucus favoring each presidential candidate, failing to perform those duties, falsifying the information, or omitting information required to be reported under section 43.4.

(3) Making a false answer under chapter 43 relative to a person's qualifications and party affiliations.

(4) Paying, offering to pay, or receiving compensation for voter registration assistance in violation of section 48A.25.

(5) Using voter registration information in violation of section 48A.39.

(6) As a candidate, making a promise to name or appoint another person to a position or to secure a position for another person in violation of section 49.120.

(7) Soliciting the use of influence from a candidate in violation of section 49.121.

(8) As a public official or employee, or a person acting under color of a public official or employee, knowingly requiring a public employee to act in connection with an absentee ballot in violation of section 53.7.

(9) As a person designated by the county commissioner of elections or by the voter casting an absentee ballot, failing to return an absentee ballot in violation of section 53.35A.

(10) As an incumbent officeholder of, or a candidate for, an office being voted for at the election in progress, serving as a member of a challenging committee or observer under section 49.104, subsection 2, 5, or 6.

2. Election misconduct in the third degree is a serious misdemeanor.

Sec. 5. NEW SECTION. 39A.5 ELECTION MISCONDUCT IN THE FOURTH DEGREE.

1. A person commits the crime of election misconduct in the fourth degree if the person willfully commits any of the following acts:

a. ELECTION DAY ACTS.

(1) As an employer, denying an employee the privilege conferred by section 49.109, or subjecting an employee to a penalty or reduction of wages because of the exercise of that privilege.

(2) Failing or refusing to comply with an order or command of an election official made pursuant to chapter 49 for which another penalty is not provided.

(3) Circulating, communicating, or attempting to circulate or communicate information with reference to the result of the counted ballots or making a compilation of vote subtotals before the polls are closed in violation of section 51.11, 52.40, or 53.23.

(4) Destroying, defacing, tearing down, or removing a list of candidates, card of instruction, or sample ballot posted as provided by law prior to the closing of the polls.

(5) Removing or destroying the supplies or articles furnished for the purpose of enabling voters to prepare their ballots.

(6) Violating or attempting to violate any of the provisions or requirements of chapter 49 to which another penalty does not apply.

b. MISCELLANEOUS OFFENSES.

(1) As a public employee, acting in connection with an absentee ballot in violation of section 53.7.

(2) Neglecting or refusing to return an absentee ballot in violation of section 53.35, or violating any other provision of chapter 53 for which another penalty is not provided.

(3) Filing a challenge containing false information under section 48A.14.

2. Election misconduct in the fourth degree is a simple misdemeanor.

Sec. 6. NEW SECTION. 39A.6 TECHNICAL INFRACTIONS — NOTICE.

If the state commissioner or county commissioner becomes aware of an apparent technical violation of a provision of chapters 39 through 53, the state commissioner or county commissioner may administratively provide a written notice and letter of instruction to the responsible person regarding proper compliance procedures. This notice is not a final determination of facts or law in the matter, and does not entitle a person to a proceeding under chapter 17A.

Sec. 7. Section 39.3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The definitions established by this section shall apply wherever the terms so defined appear in this chapter and in chapters 39A, 43, 44, 45, 47, 48A through 53, and 56 unless the context in which any such term is used clearly requires otherwise.

Sec. 8. Section 48A.25, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A person may pay, offer to pay, or accept compensation for assisting others in completing voter registration forms only if the compensation is based solely on the time spent providing the assistance. Paying, offering to pay, or receiving compensation based on the number of registration forms completed, or the party affiliations shown on completed registration forms, or on any other performance criteria, is ~~a serious misdemeanor~~ unlawful.

Sec. 9. Section 48A.39, Code 2001, is amended to read as follows:

48A.39 USE OF REGISTRATION INFORMATION — PENALTY.

Information about individual registrants obtained from voter registration records shall be used only to request the registrant's vote at an election, or for another genuine political purpose, or for a bona fide official purpose by an elected official, or for bona fide political research, but shall not be used for any commercial purposes. ~~A person who uses registration information in violation of this section commits a serious misdemeanor.~~

Sec. 10. Section 52.40, subsection 4, Code 2001, is amended to read as follows:

4. The tabulation of ballots received from early pick-up sites shall be conducted at the counting center during the hours the polls are open, in the manner provided in sections 52.36 and 52.37, except that the room in which the ballots are being counted shall not be open to the public during the hours in which the polls are open and the room shall be policed so as to prevent any person other than those whose presence is authorized by this section and sections 52.36 and 52.37 from obtaining information about the progress of the count. The only persons who may be admitted to that room, as long as admission does not impede the progress of the count, are the members of the board, one challenger representing each political party, one observer representing any nonparty political organization or any candidate nominated by petition pursuant to chapter 45, and the commissioner or the commissioner's designee. No compilation of vote subtotals shall be made while the polls are open. ~~Any person who makes a compilation of vote subtotals before the polls are closed commits a simple misdemeanor.~~ It shall be unlawful for any person to communicate or attempt to communicate, directly or indirectly, information regarding the progress of the count at any time before the polls are closed.

Sec. 11. Section 53.7, subsection 2, Code 2001, is amended to read as follows:

2. ~~Any It is unlawful for any~~ public officer or employee, or any person acting under color of a public officer or employee, ~~who to knowingly requires that~~ require a public employee solicit an application or request for an application for an absentee ballot, or knowingly requires that an employee take an affidavit or request for an affidavit in connection with an absentee ballot application, ~~commits a serious misdemeanor.~~²

Sec. 12. Section 53.35, Code 2001, is amended to read as follows:

53.35 REFUSAL TO RETURN BALLOT.

~~Any It is unlawful for any~~ person ~~who~~, having procured an official ballot or ballots, ~~shall to~~ willfully neglect or refuse to cast or return the same in the manner provided, ~~or who shall willfully violate any provision of this chapter, shall, unless otherwise provided, be guilty of a simple misdemeanor.~~ Any person who applies for a ballot and willfully neglects or refuses to return the same shall be deemed to have committed an offense in the county to which such ballot was returnable.

Sec. 13. Section 53.35A, Code 2001, is amended to read as follows:

53.35A FAILURE TO RETURN BALLOT — PENALTY.

~~Any It is unlawful for any~~ person designated by the commissioner, or by the elector casting the absentee ballot, to deliver the sealed envelope containing the absentee ballot, ~~who to~~ willfully ~~fails fail~~ to return the ballot to the commissioner or the commissioner's designee, ~~is guilty of a serious misdemeanor.~~

Sec. 14. Section 53.49, Code 2001, is amended to read as follows:

53.49 APPLICABLE TO ARMED FORCES AND OTHER CITIZENS.

The provisions of this division as to absent voting shall apply only to absent voters in the armed forces of the United States as defined for the purpose of absentee voting in section 53.37. The provisions of sections 53.1 to 53.36, through 53.35 shall apply to all other qualified voters not members of the armed forces of the United States.

Sec. 15. Sections 43.119, 43.120, 48A.41, 49.107, 49.110, 49.111, 49.113, 49.119, 51.16, 51.17, 53.36, 722.4, 722.5, and 722.8, Code 2001, are repealed.

Sec. 16. Section 722.7, Code Supplement 2001, is repealed.

Approved April 4, 2002

² See chapter 1175, §80 herein

CHAPTER 1072STATE GOVERNMENT ADVERTISEMENTS
FOR REQUESTS FOR BIDS AND PROPOSALS — INTERNET POSTING

H.F. 2536

AN ACT relating to advertisements for requests for bids and proposals by state government.

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

Section 1. Section 73.2, Code 2001, is amended to read as follows:

73.2 ADVERTISEMENTS FOR BIDS — FORM.

1. All requests hereafter made for bids and proposals for materials, products, supplies, provisions, and other needed articles to be purchased at public expense, shall be made in general terms and by general specifications and not by brand, trade name, or other individual mark. All such requests and bids shall contain ~~therein~~ a paragraph in easily legible print, reading as follows:

By virtue of statutory authority, a preference will be given to products and provisions grown and coal produced within the state of Iowa.

2. In addition to any method of advertisement required by law, any executive branch agency, the general assembly, and the judicial branch shall advertise any request for bids and proposals on the official state internet site operated by the information technology department. An electronic link to an internet site maintained by an executive branch agency, the general assembly, or the judicial branch on which requests for bids and proposals for that agency or for the general assembly or judicial branch are posted satisfies the requirements of this subsection.

Approved April 4, 2002

CHAPTER 1073

CAMPAIGN FINANCE REGULATION

H.F. 2538

AN ACT relating to campaign finance, including a reporting threshold for filing organizational committee statements, providing for the filing of reports with the Iowa ethics and campaign disclosure board, providing a document retention period, and relating to certain signature requirements, and providing effective dates.

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

Section 1. Section 56.2, subsection 5, Code 2001, is amended to read as follows:

5. "Candidate's committee" means the committee designated by the candidate for a state, county, city, or school office to receive contributions in excess of ~~five~~ seven hundred ~~fifty~~ dollars in the aggregate, expend funds in excess of ~~five~~ seven hundred ~~fifty~~ dollars in the aggregate, or incur indebtedness on behalf of the candidate in excess of ~~five~~ seven hundred ~~fifty~~ dollars in the aggregate in any calendar year.

Sec. 2. Section 56.2, subsection 18, Code 2001, is amended to read as follows:

18. "Political committee" means either of the following:

a. A committee, but not a candidate's committee, that accepts contributions in excess of five seven hundred fifty dollars in the aggregate, makes expenditures in excess of five seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of five seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate the nomination, election, or defeat of a candidate for public office, or to expressly advocate the passage or defeat of a ballot issue.

b. An association, lodge, society, cooperative, union, fraternity, sorority, educational institution, civic organization, labor organization, religious organization, or professional organization that accepts contributions in excess of five seven hundred fifty dollars in the aggregate, makes expenditures in excess of five seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of five seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate the nomination, election, or defeat of a candidate for public office, or to expressly advocate the passage or defeat of a ballot issue.

Sec. 3. Section 56.4, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

56.4 REPORTS FILED WITH BOARD.

1. All statements and reports required to be filed under this chapter shall be filed with the board. The board shall provide copies of all statements and reports filed under this chapter for a county, city, school, or other political subdivision with the commissioner responsible under section 47.2.

2. The board shall retain filed statements and reports for at least five years from the date of the election in which the committee is involved, or at least five years from the certified date of dissolution of the committee, whichever date is later.

3. The commissioner shall retain statements and reports provided by the board for a county, city, school, or other political subdivision for at least three years from the date of the election in which the committee is involved. However, statements and reports provided by the board for county statutory political committees shall be retained for five years from the date of the election in which the committee is involved.

4. Political committees expressly advocating the nomination, election, or defeat of candidates for both federal office and any elected office created by law or the Constitution of the State of Iowa shall file statements and reports with the board in addition to any federal reports required to be filed with the board. However, a political committee that is registered and filing full disclosure reports of all financial activities with the federal election commission may file verified statements as provided in section 56.5.

Sec. 4. Section 56.5, subsection 2, paragraph f, Code 2001, is amended to read as follows:

f. A signed statement by the treasurer of the committee and the candidate, in the case of a candidate's committee, which shall verify that they are aware of the requirement to file disclosure reports if the committee, the committee officers, the candidate, or both the committee officers and the candidate receive contributions in excess of five seven hundred fifty dollars in the aggregate, make expenditures in excess of five seven hundred fifty dollars in the aggregate, or incur indebtedness in excess of five seven hundred fifty dollars in the aggregate in a calendar year to expressly advocate the nomination, election, or defeat of any candidate for public office. In the case of political committees, statements shall be made by the treasurer of the committee and the chairperson.

Sec. 5. Section 56.5, subsection 5, Code 2001, is amended to read as follows:

5. A committee or organization not organized as a committee under this section which makes a contribution to a candidate's committee or political committee organized in Iowa shall disclose each contribution to the board. A committee or organization not organized as

a committee under this section which is not registered and filing full disclosure reports of all financial activities with the federal election commission or another state's disclosure commission shall register and file full disclosure reports with the board pursuant to this chapter, and shall either appoint an eligible Iowa elector as committee or organization treasurer, or shall maintain all committee funds in an account in a financial institution located in Iowa. A committee which is currently filing a disclosure report in another jurisdiction shall either file a statement of organization under subsections 1 and 2 and file disclosure reports, the same as those required of committees organized only in Iowa, under section 56.6, or shall file one copy of a verified statement with the board and a second copy with the treasurer of the committee receiving the contribution. The form shall be completed and filed at the time the contribution is made. The verified statement shall be on forms prescribed by the board and shall attest that the committee is filing reports with the federal election commission or in a jurisdiction with reporting requirements which are substantially similar to those of this chapter, and that the contribution is made from an account which does not accept contributions which would be in violation of section 56.15. The form shall include the complete name, address, and telephone number of the contributing committee, the state or federal jurisdiction under which it is registered or operates, the identification of any parent entity or other affiliates or sponsors, its purpose, the name, ~~and address, and signature~~ of an Iowa resident authorized to receive service of original notice and the name and address of the receiving committee, the amount of the cash or in-kind contribution, and the date the contribution was made.

Sec. 6. Section 56.5A, subsection 1, Code 2001, is amended to read as follows:

1. Each candidate for state, county, city, or school office shall organize one, and only one, candidate's committee for a specific office sought when the candidate receives contributions in excess of ~~five~~ seven hundred ~~fifty~~ dollars in the aggregate, makes expenditures in excess of ~~five~~ seven hundred ~~fifty~~ dollars in the aggregate, or incurs indebtedness in excess of ~~five~~ seven hundred ~~fifty~~ dollars in the aggregate in a calendar year.

Sec. 7. Section 56.6, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. Each treasurer of a committee shall file with the board ~~or commissioner~~ disclosure reports of contributions received and disbursed on forms prescribed by rules as provided by chapter 17A. The reports from all committees, except those committees for municipal and school elective offices and for local ballot issues, shall be filed on the nineteenth day or mailed bearing a United States postal service postmark dated on or before the nineteenth day of January, May, July, and October of each year. The May, July, and October reports shall be current as of five days prior to the filing deadline. The January report shall be the annual report covering activity through December 31. However, a state, county, or city statutory political committee is not required to file the May and July reports for a year in which no primary or general election is held at the respective state, county, or city level. A candidate's committee, other than for municipal and school elective offices, for a year in which the candidate is not standing for election, is not required to file the May, July, and October reports. Reports for committees for a ballot issue placed before the voters of the entire state shall be filed at the January, May, July, and October deadlines.

Sec. 8. Section 56.6, subsection 2, Code 2001, is amended to read as follows:

2. If any committee, after having filed a statement of organization or one or more disclosure reports, dissolves or determines that it shall no longer receive contributions or make disbursements, the treasurer of the committee shall notify the board ~~or the commissioner~~ within thirty days following such dissolution by filing a dissolution report on forms prescribed by the board. Moneys refunded in accordance with a dissolution statement shall be considered a disbursement or expense but the names of persons receiving refunds need not be released or reported unless the contributors' names were required to be reported when the contribution was received.

Sec. 9. Section 56.13, Code 2001, is amended to read as follows:

56.13 INDEPENDENT EXPENDITURES.

1. Action involving a contribution or expenditure ~~which that~~ must be reported under this chapter and ~~which that~~ is taken by any person, candidate's committee, or political committee on behalf of a candidate, if known and approved by the candidate, shall be deemed action by the candidate and reported by the candidate's committee. It shall be presumed that a candidate approves the action if the candidate had knowledge of it and failed to file a statement of disavowal with the ~~commissioner or~~ board and take corrective action within seventy-two hours of the action. A person, candidate's committee, or political committee taking such action independently of that candidate's committee shall notify that candidate's committee in writing within twenty-four hours of taking the action. The notification shall provide that candidate's committee with the cost of the promotion at fair market value. A copy of the notification shall be sent to the board.

Any person who makes expenditures or incurs indebtedness, other than incidental expenses incurred in performing volunteer work, to expressly advocate the nomination, election, or defeat of a candidate for public office shall notify the appropriate committee and provide necessary information for disclosure reports.

2. If a person, other than a political committee, makes one or more expenditures in excess of ~~five~~ seven hundred ~~fifty~~ dollars in the aggregate, or incurs indebtedness in excess of ~~five~~ seven hundred ~~fifty~~ dollars in the aggregate, in any one calendar year to expressly advocate the passage or defeat of a ballot issue, the person shall file a statement of activity within ten days of taking the action exceeding the threshold. The statement shall contain information identifying the person filing the statement, identifying the ballot issue, and indicating the position urged by the person with regard to the ballot issue. The person shall file reports indicating the dates on which the expenditures or incurrence of indebtedness took place; a description of the nature of the action taken which resulted in the expenditures or debt; and the cost of the promotion at fair market value. For a local ballot issue, the reports shall be filed five days prior to any election in which the ballot issue appears and on the first day of the month following the election, as well as on the nineteenth day of January, May, and July of each year in which the ballot issue appears on the ballot and on the nineteenth day of January and October of each year in which the ballot issue does not appear on the ballot. For a statewide ballot issue, reports shall be filed on the nineteenth day of January, May, and July of each year. The reports shall be current to five days prior to the filing deadline, and are considered timely filed if mailed bearing a United States postal service postmark on or before the due date. Filing obligations shall cease when the person files a statement of discontinuation indicating that the person's financial activity to expressly advocate the passage or defeat of the ballot issue has ceased. Statements and reports shall be filed with the ~~commissioner responsible under section 47.2 for conducting the election at which the issue is voted upon, except that reports on a statewide ballot issue shall be filed with the board.~~

3. A person taking action involving the making of an expenditure or incurrence of indebtedness to expressly advocate the passage or defeat of a ballot issue independently of a political committee shall, within seventy-two hours of taking the action, notify in writing any political committee ~~which that~~ advocates the same position with regard to the ballot issue as the person taking the action. The notification shall provide the political committee with the cost of the promotion at fair market value. A copy of the notification shall be sent to the board. It shall be presumed that a benefited committee approves the action if the committee fails to file a statement of disavowal with the ~~commissioner or~~ board and takes corrective action within ten days of the action. Action approved by a committee shall be reported as a contribution by the committee.

4. This section shall not be construed to require duplicate reporting of anything reported under this chapter by a political committee except that actions ~~which that~~ constitute contribu-

tions in kind shall be reported by the benefited committee. This section shall not be construed to require reporting of action by any person ~~which~~ that does not constitute a contribution.

Sec. 10. Section 68B.2, subsection 5, Code 2001, is amended to read as follows:

5. "Candidate's committee" means the committee designated by a candidate for a state, county, city, or school office, as provided under chapter 56, to receive contributions in excess of ~~five~~ seven hundred ~~fifty~~ dollars in the aggregate, expend funds in excess of ~~five~~ seven hundred ~~fifty~~ dollars in the aggregate, or incur indebtedness on behalf of the candidate in excess of ~~five~~ seven hundred ~~fifty~~ dollars in the aggregate in any calendar year.

Sec. 11. EFFECTIVE DATES. This Act, being deemed of immediate importance, takes effect upon enactment, except for the amendment in this Act to section 56.4, which takes effect January 1, 2003.

Approved April 4, 2002

CHAPTER 1074

CHILD ABUSE ASSESSMENT INTERVIEWS

H.F. 2552

AN ACT relating to interviews conducted in association with a child abuse assessment.

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

Section 1. Section 232.71B, subsection 4, paragraph e, Code Supplement 2001, is amended to read as follows:

e. An interview of the person alleged to have committed the child abuse, if the person's identity and location are known, The offer of an interview shall be made to the person prior to any consideration or determination being made that the person committed the alleged abuse. The purpose of the interview shall be to afford provide the person with the opportunity to address the explain or rebut the allegations of the child abuse report or other allegations made during the assessment. The interview shall be conducted, or an opportunity for an interview shall be provided, prior to a determination of child abuse being made. The court may waive the requirement of to offer the interview only for good cause. The person offered an interview or the person's attorney may decline to be interviewed.

Sec. 2. Section 235A.13, subsection 10, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. A recording made of an interview conducted under chapter 232 in association with a child abuse assessment.

Approved April 4, 2002

CHAPTER 1075**TERRORISM AND INTIMIDATION WITH A DANGEROUS WEAPON**

S.F. 2146

AN ACT establishing criminal offenses for acts of terrorism, changing related criminal penalties, and providing a penalty.

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

DIVISION I

Section 1. Section 707.2, Code 2001, is amended by adding the following new subsection: **NEW SUBSECTION.** 6. The person kills another person while participating in an act of terrorism as defined in section 708A.1.

Sec. 2. **NEW SECTION.** 708A.1 DEFINITIONS.

For purposes of this chapter:

1. "Material support or resources" means knowingly assisting or providing money, financial securities, financial services, lodging, training, safe houses, false documentation or identification, communication equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials, for the purpose of assisting a person in the commission of an act of terrorism.

2. "Renders criminal assistance" means a person who, with intent to prevent the apprehension or obstruct the prosecution or defense of any person, knowingly does any of the following acts:

a. Destroys, alters, conceals, or disguises physical evidence which would be admissible in the trial of another for a public offense, or makes available false evidence or furnishes false information with the intent that it be used in the trial of that case.

b. Induces a witness having knowledge material to the subject at issue to leave the state or hide, or to fail to appear when subpoenaed.

c. Provides concealment or warns of impending apprehension to any person being sought for the subject at issue.

d. Provides a weapon, disguise, transportation, or money to any person being sought for the subject at issue.

e. Prevents or obstructs, by means of force, intimidation, or deception, another person from performing an act which might aid in the apprehension or prosecution or defense of any person.

3. "Terrorism" means an act intended to intimidate or coerce a civilian population, or to influence the policy of a unit of government by intimidation or coercion, or to affect the conduct of a unit of government, by shooting, throwing, launching, discharging, or otherwise using a dangerous weapon at, into, or in a building, vehicle, airplane, railroad engine, railroad car, or boat, occupied by another person, or within an assembly of people. The terms "intimidate", "coerce", "intimidation", and "coercion", as used in this definition, are not to be construed to prohibit picketing, public demonstrations, and similar forms of expressing ideas or views regarding legitimate matters of public interest protected by the United States and Iowa constitutions.

Sec. 3. **NEW SECTION.** 708A.1A TERRORISM.

A person who commits or attempts to commit an act of terrorism commits a class "B" felony. However, notwithstanding section 902.9, subsection 2, the maximum sentence for a person convicted under this section shall be a period of confinement of not more than fifty years.

Sec. 4. **NEW SECTION.** 708A.2 VALUE FOR PURPOSES OF MATERIAL SUPPORT AND RESOURCES.

The value of property or services is its highest value by any reasonable standard at the time

the material support or resources is given. Any reasonable standard includes but is not limited to market value within the community, actual value, or replacement value.

If credit, property, or services are obtained by two or more acts from the same person or location, or from different persons by two or more acts which occur in approximately the same location or time period so that the material support or resources are attributable to a single scheme, plan, or conspiracy, the acts may be considered as a single act of support or resources and the value may be the total value of all credit, property, and services involved.

Sec. 5. NEW SECTION. 708A.3 SOLICITING OR PROVIDING MATERIAL SUPPORT OR RESOURCES FOR TERRORISM.

1. A person who provides material support or resources to a person who commits or attempts to commit terrorism and the value of the material support or resources is in excess of one thousand dollars commits a class "B" felony.

2. A person who provides material support or resources to a person who commits or attempts to commit terrorism and the value of the material support or resources does not exceed one thousand dollars commits a class "C" felony.

Sec. 6. NEW SECTION. 708A.4 THREAT OF TERRORISM.

A person who threatens to commit terrorism or threatens to cause terrorism to be committed and who causes a reasonable expectation or fear of the imminent commission of such an act of terrorism commits a class "D" felony.

Sec. 7. NEW SECTION. 708A.5 OBSTRUCTION OF TERRORISM PROSECUTION.

1. A person who renders criminal assistance to another person who commits terrorism that results in the murder of a third person while knowing that the other person was engaged in terrorism commits a class "B" felony.

2. A person who renders criminal assistance to another person who commits terrorism while knowing that the other person was engaged in an act of terrorism commits a class "C" felony.

DIVISION II

Sec. 8. Section 708.6, Code 2001, is amended to read as follows:

708.6 TERRORISM INTIMIDATION WITH A DANGEROUS WEAPON.

A person commits a class "C" felony when the person, with the intent to injure or provoke fear or anger in another, shoots, throws, launches, or discharges a dangerous weapon at, into, or in a building, vehicle, airplane, railroad engine, railroad car, or boat, occupied by another person, or within an assembly of people, and thereby places the occupants or people in reasonable apprehension of serious injury or threatens to commit such an act under circumstances raising a reasonable expectation that the threat will be carried out.

A person commits a class "D" felony when the person shoots, throws, launches, or discharges a dangerous weapon at, into, or in a building, vehicle, airplane, railroad engine, railroad car, or boat, occupied by another person, or within an assembly of people, and thereby places the occupants or people in reasonable apprehension of serious injury or threatens to commit such an act under circumstances raising a reasonable expectation that the threat will be carried out.

Sec. 9. Section 723A.1, subsection 1, paragraph c, Code 2001, is amended to read as follows:

c. An offense constituting a violation of section 708.6 involving an act of terrorism intimidation with a dangerous weapon.

Approved April 5, 2002

CHAPTER 1076**OPEN MEETINGS AND PUBLIC RECORDS —
CONFIDENTIAL PUBLIC AIRPORT, MUNICIPAL CORPORATION, UTILITY,
AND RURAL WATER DISTRICT INFORMATION***S.F. 2277*

AN ACT creating a new category of confidential public records in the custody of certain airports, municipal corporations, utilities, or water districts, and allowing a governmental body to hold a closed session to discuss such confidential records.

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

Section 1. Section 21.5, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. To discuss information contained in records in the custody of a public airport, municipal corporation, municipal utility, jointly owned municipal utility, or rural water district organized under chapter 357A, that are confidential records pursuant to section 22.7, subsection 43. This paragraph is repealed effective June 30, 2007.

Sec. 2. Section 22.7, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 43. Records of a public airport, municipal corporation, municipal utility, jointly owned municipal utility, or rural water district organized under chapter 357A, where disclosure could reasonably be expected to jeopardize the security or the public health and safety of the citizens served by a public airport, municipal corporation, municipal utility, jointly owned municipal utility, or rural water district organized under chapter 357A. Such records include but are not limited to vulnerability assessments and information included within such vulnerability assessments; architectural, engineering, or construction diagrams; drawings, plans, or records pertaining to security measures such as security and response plans, security codes and combinations, passwords, passes, keys, or security or response procedures; emergency response protocols; and records disclosing the configuration of critical systems or infrastructures of a public airport, municipal corporation, municipal utility, jointly owned municipal utility, or rural water district organized under chapter 357A. This subsection is repealed effective June 30, 2007.

Approved April 5, 2002

CHAPTER 1077**CERTIFICATION OF WELL CONTRACTORS AND
PUMP SERVICES PROVIDERS***H.F. 583*

AN ACT relating to the certification of persons providing water pump services.

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

Section 1. Section 455B.190A, subsection 1, Code 2001, is amended to read as follows:

1. As used in this section:

a. “Certified well contractor” means a well contractor who has successfully passed an

examination prescribed by the department to determine the applicant's qualifications to perform well drilling or pump services or both.

a. b. "Examination" means an examination for well contractors which includes, but is not limited to, relevant aspects of Iowa groundwater law, well construction, well maintenance, pump services, and well abandonment practices which protect groundwater and water supplies.

b. c. "Groundwater" means groundwater as defined in section 455E.2.

d. "Pump services" means the installation, repair, and maintenance of water systems.

e. "Water systems" means any part of the mechanical portion of a water well that delivers water from the well to a valve that separates the well from the plumbing system. "Water systems" includes the pump, drop pipe to the well, electrical wire from the pump to the electrical panel, piping from the well to the pressure tank, pitless unit or adaptor, and all related miscellaneous fittings necessary to operate the well pump. "Water systems" does not include any outside piping to other buildings, and does not include the piping that carries the water in the remainder of the distribution system.

e. f. "Water well" or "well" means water well as defined in section 455B.171.

d. g. "Well contractor" means contractor as defined pursuant to section 455B.171, subsection 10.

e. h. "Well contractors' council" means the council established in subsection 3.

f. i. "Well services" means new well construction, well reconstruction, installation of pitless equipment, pump services, or well plugging.

Sec. 2. Section 455B.190A, subsection 2, paragraphs d, e, and g, Code 2001, are amended to read as follows:

d. Violation of the rules regarding the provision of well construction, maintenance, or plugging services are grounds for suspension or revocation of certification.

e. Provisional certification may be obtained by an applicant in instances of shortages of certified personnel if all of the following conditions are met:

(1) The applicant provides documentation of at least one year of work experience in well services performed under the direct supervision of a certified well contractor.

(2) The applicant successfully completes the examination.

(3) A certified well contractor who employs an applicant for well contractor certification co-signs the application for provisional certification. An employer who co-signs an application for provisional certification is jointly liable for a violation of the rules regarding well construction, maintenance, or plugging services by the provisionally certified well contractor and the violation is grounds for the suspension or revocation of certification of the certified well contractor and the provisionally certified well contractor.

g. The examination shall be developed by the department in consultation with the well contractors' council to determine the applicant's qualifications to perform well drilling or pump services or both. The examination shall be updated as necessary to reflect current groundwater law and well construction, maintenance, pump services, and abandonment practices. The examination shall be administered by the department or by a person designated by the department.

Sec. 3. Section 455B.190A, subsection 3, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

3. a. The department shall establish a well contractors council.

b. The membership of the council shall consist of the following members:

(1) Two well drilling contractors.

(2) Two pump installation contractors.

(3) One citizen member of the Iowa groundwater association or its successor.

(4) One citizen member of the Iowa environmental health association or its successor.

(5) The director of public health or the director's designee.

(6) The state geologist or the state geologist's designee.

- (7) The director of the state hygienic laboratory or the director's designee.
- c. The council shall advise and assist the department in doing all of the following:
- (1) The development, review, and revision of the department's rules to implement this section.
 - (2) The development, updating, and revision of the examination for well contractor certification.
 - (3) The establishment, review, and revision of the continuing education requirements for certification.
 - (4) The production and publication of the consumer information pamphlet.
- d. The council shall meet as often as necessary to perform the council's duties. The department shall provide the council with staff assistance.

Sec. 4. Section 455B.190A, subsection 4, Code 2001, is amended to read as follows:

4. The department shall develop, in consultation with the well contractors' council, a consumer information pamphlet regarding well construction, well maintenance, well plugging, pump services, and Iowa groundwater laws. The department and the council shall review and revise the consumer information pamphlet as necessary. The consumer information pamphlet shall be supplied to well contractors, at cost, and well contractors shall supply one copy at no cost to potential customers prior to initiation of well services.

Sec. 5. Section 455B.190A, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A well contractor who is engaged in performing pump services on or prior to June 30, 2004, and who registers as a pump installer with the department by June 30, 2004, shall be deemed to have met the certification requirements of this section without examination. Beginning July 1, 2004, a pump installer seeking an initial well contractor certification shall meet the requirements for certification established in this section.

Sec. 6. NOTIFICATION. The department shall make reasonable efforts to provide notice to persons engaged in performing pump services on or prior to June 30, 2004, that such persons shall have until June 30, 2004, to register with the department and thereby become certified without examination.

Approved April 5, 2002

CHAPTER 1078

CITY PLANNING AND ZONING COMMISSIONS — EXTENDED ZONING JURISDICTION — MEMBERSHIP

H.F. 2135

AN ACT relating to the membership of the planning and zoning commission in certain cities.

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

Section 1. Section 414.23, unnumbered paragraph 2, Code 2001, is amended to read as follows:

A municipality, during the time its zoning jurisdiction is extended under this section, shall increase the size of its planning and zoning commission and its board of adjustment each by

two members. The planning and zoning commission shall include a member of the board of supervisors of the affected county and a resident of the area outside the city limits over which the zoning jurisdiction is extended. The additional members of the board of adjustment shall be residents of the area outside the city limits over which the zoning jurisdiction is extended. They The county supervisor and the residents shall be appointed by the board of supervisors of the county in which such extended area is located and for the same terms of office and have the same rights, privileges, and duties as other members of each of said the bodies. However, if the extended zoning jurisdiction of a municipality extends into an adjacent county without a county zoning ordinance, the boards of supervisors of the affected counties, jointly, shall appoint one of their members to the planning and zoning commission.

Sec. 2. TRANSITION. If, on the effective date of this Act, a vacancy does not exist in one of the two seats on the planning and zoning commission, represented by residents of the area outside the city limits pursuant to section 414.23, the incumbents may serve their unexpired terms. Thereafter, one of the two additional members of the planning and zoning commission of a city extending its zoning jurisdiction shall be a member of the board of supervisors of the affected county pursuant to section 1 of this Act.

Approved April 5, 2002

CHAPTER 1079

VOLUNTEER EMERGENCY SERVICES PROVIDER DEATH BENEFITS

H.F. 2152

AN ACT concerning the volunteer emergency services provider death benefit by providing for the death benefit for reserve peace officers, eliminating the prospective repeal of the death benefit, and providing an effective date.

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

Section 1. Section 100B.11, subsection 3, Code 2001, is amended to read as follows:

3. For purposes of this section, "volunteer emergency services provider" means a volunteer fire fighter as defined in section 85.61, ~~or a volunteer emergency medical care provider or volunteer emergency rescue technician defined in section 147A.1 who is not covered as a volunteer emergency services provider under chapter 97A, 97B, or 411,~~ or a reserve peace officer as defined in section 80D.1A.

Sec. 2. 2000 Iowa Acts, chapter 1232, section 98, is repealed.

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

Approved April 5, 2002

CHAPTER 1080

DNA PROFILING OF CRIMINAL DEFENDANTS

H.F. 2201

AN ACT requiring all felons to submit a physical specimen for DNA profiling, and providing a contingent effective date.

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

Section 1. NEW SECTION. 80.40 DNA PROFILING.

The division of criminal investigation shall conduct DNA profiling of submitted physical specimens as ordered under section 901.5 or 906.4. The division of criminal investigation may contract with private entities for DNA profiling. "DNA profiling" means the procedure established by the division of criminal investigation for determining a person's genetic identity through the analysis of a person's deoxyribonucleic acid. The division of criminal investigation shall share the DNA profiling information with the appropriate federal agencies for use in a national database.

Sec. 2. Section 901.5, subsection 8A, Code Supplement 2001, is amended to read as follows:

8A. a. ~~The Pursuant to section 902.13, the court shall order DNA profiling, as defined in section 80.40, of a defendant convicted of an offense that requires profiling under section 13.10 a felony or of a defendant convicted of an aggravated misdemeanor pursuant to section 709.11.~~

b. ~~Notwithstanding section 13.10, the~~ The court may order ~~the a~~ defendant not subject to DNA profiling under paragraph "a" to provide a physical specimen to be submitted for the DNA profiling if appropriate. In determining the appropriateness of ordering DNA profiling, the court shall consider the deterrent effect of DNA profiling, the likelihood of repeated offenses by the defendant, and the seriousness of the offense.

Sec. 3. NEW SECTION. 902.13 DNA PROFILING — FELONIES.

A person against whom a judgment of conviction for a felony has been entered shall submit a physical specimen for DNA profiling, as defined in section 80.40, after the person has been committed to the custody of the director of the department of corrections or upon assignment to a judicial district department of correctional services. If the person is confined in a county jail as a result of a felony conviction under section 321J.2, the person shall submit a physical specimen for DNA profiling prior to release from the county jail. The division of criminal investigation of the department of public safety shall conduct DNA profiling of submitted specimens as provided in section 80.40.

Sec. 4. Section 906.4, unnumbered paragraph 2, Code 2001, is amended to read as follows:

~~Notwithstanding section 13.10, the~~ The board may shall order the defendant to provide a physical specimen to be submitted for DNA profiling, as defined in section 80.40, as a condition of parole or work release, if appropriate. ~~In determining the appropriateness of ordering DNA profiling, the board shall consider the deterrent effect of DNA profiling, the likelihood of repeated offenses by the defendant, and the seriousness of the offense unless the defendant has previously provided a physical specimen for DNA profiling pursuant to section 901.5 or 902.13 and the DNA profile developed from the previously submitted specimen remains available for use.~~

Sec. 5. Section 13.10, Code 2001, is repealed.

Sec. 6. CONTINGENT EFFECTIVE DATE. The effective date of this Act shall be the later of July 1, 2002, or on the date when sufficient funds have been appropriated or are first re-

ceived to pay the costs of complying with this Act. The commissioner of public safety shall notify the Code editor when sufficient funds have been appropriated or are first received to pay the costs of complying with this Act. The department of public safety, the department of corrections, and the counties shall comply with section 13.10 until the effective date of this Act.

Approved April 5, 2002

CHAPTER 1081

CASE PERMANENCY PLANS — FOSTER CHILDREN AGED SIXTEEN OR OLDER

H.F. 2399

AN ACT relating to the requirements of a case permanency plan for a child in an out-of-home placement who is age sixteen or older.

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

Section 1. Section 232.2, subsection 4, paragraph f, Code Supplement 2001, is amended to read as follows:

f. When a child is sixteen years of age or older, a written plan of services which, based upon an assessment of the child's needs, would assist the child in preparing for the transition from foster care to independent living. The written plan of services and needs assessment shall be developed with any person who may reasonably be expected to be a service provider for the child when the child becomes an adult or to become responsible for the costs of services at that time, including but not limited to the administrator of county general relief under chapter 251 or 252 or of the single entry point process implemented under section 331.440. If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2.

Sec. 2. Section 232.52, subsection 6, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

When the court orders the transfer of legal custody of a child pursuant to subsection 2, paragraph "d", and the child is sixteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to independent living. If the child has a case permanency plan, the court shall consider the written plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the written plan and needs assessment at the time the transfer order is entered, in determining the services to be specified in the order, the court shall consider a written plan for such services and a needs assessment which shall be developed with any person who may reasonably be expected to be a service provider for the child or to become responsible for the costs of services at that time, including but not limited to the administrator of county general relief under chapter 251 or 252 or of the single entry point process implemented under section 331.440. If the child is interested in pursuing higher education, the plan shall provide for the child's participation in the college student aid commission's program of assistance in applying for federal and state aid under section 261.2.

Sec. 3. Section 232.102, subsection 1, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

If the child is sixteen years of age or older, the order shall specify the services needed to assist the child in preparing for the transition from foster care to independent living. If the child has a case permanency plan, the court shall consider the written plan of services and needs assessment developed for the child's case permanency plan. If the child does not have a case permanency plan containing the written plan and needs assessment at the time the order is entered, in determining the services to be specified in the order, the court shall consider a written plan for such services and a needs assessment which shall be developed with any person who may reasonably be expected to be a service provider for the child or to become responsible for the costs of services at that time, including but not limited to the administrator of county general relief under chapter 251 or 252 or of the single entry point process implemented under section 331.440.

Approved April 5, 2002

CHAPTER 1082

STATE BUILDING CODE — MINIMUM ENERGY STANDARDS

H.F. 2418

AN ACT relating to the applicability of the thermal efficiency energy conservation standards in the state building code.

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

Section 1. Section 103A.8A, Code 2001, is amended to read as follows:

103A.8A MINIMUM ENERGY EFFICIENCY STANDARD.

The state building code commissioner shall adopt as a part of the state building code a requirement that new single-family or two-family residential construction shall meet an established minimum energy efficiency standard. The standard shall be stated in terms of the home heating index developed by the physics department at Iowa state university of science and technology. The minimum standard shall be the average energy consumption of new single-family or two-family residential construction as determined by a survey conducted by the energy and geological resources division of the department of natural resources of the average actual energy consumption, as expressed in terms of the home heating index. The minimum standard shall only apply to single-family or two-family residential construction commenced after the adoption of the standard. This chapter shall not be construed to prohibit a governmental subdivision from adopting or enacting a minimum energy standard which is substantially in accordance and consistent with model energy codes and standards developed by a nationally recognized organization in effect on or after the effective date of this Act. A governmental subdivision that adopts or enacts a minimum energy standard which is substantially in accordance and consistent with model energy codes and standards developed by a nationally recognized organization shall adopt or enact any update or revision to the model energy codes and standards.

Sec. 2. Section 103A.10, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 5. This chapter shall not be construed to prohibit a governmental subdivision from adopting or enacting a minimum energy standard which is substantially in ac-

cordance and consistent with model energy codes and standards developed by a nationally recognized organization in effect on or after the effective date of this Act. A governmental subdivision that adopts or enacts a minimum energy standard which is substantially in accordance and consistent with model energy codes and standards developed by a nationally recognized organization shall adopt or enact any update or revision to the model energy codes and standards.

Approved April 5, 2002

CHAPTER 1083

CHARACTER EDUCATION PROGRAMS

H.F. 2454

AN ACT encouraging school districts to establish character education programs, and directing the department of education to partner with local educational institutions and agencies and nonprofit organizations in the design and implementation of character education programs.

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

Section 1. Section 256.18, Code 2001, is amended to read as follows:

256.18 CHARACTER EDUCATION POLICY — ~~PILOT PROGRAM.~~

1. It is the policy of the general assembly that Iowa's schools be the best and safest possible. To that end, each school is encouraged to instill the highest character and academic excellence in each student, in close cooperation with the student's parents, and with input from the community and educators.

Schools should make every effort, formally and informally, to stress character qualities that will maintain a safe and orderly learning environment, and that will ultimately equip students to be model citizens. These qualities may include but are not limited to honesty; responsibility; respect and care for the person and property of others; self-discipline; understanding of, respect for, and obedience to law and citizenship; courage, initiative, commitment, and perseverance; kindness, compassion, service, and loyalty; fairness, moderation, and patience; and the dignity and necessity of hard work caring, civic virtue and citizenship, justice and fairness, respect, responsibility, trustworthiness, giving, honesty, self-discipline, respect for and obedience to the law, citizenship, courage, initiative, commitment, perseverance, kindness, compassion, service, loyalty, patience, the dignity and necessity of hard work, and any other qualities deemed appropriate by a school.

2. The department of education shall assist schools in accessing financial and curricular resources to implement programs stressing these character qualities. Schools are encouraged to use their existing resources to implement programs stressing these qualities. Whenever possible, the department shall develop partnerships with schools, nonprofit organizations, or an institution of higher education, or with a consortium of two or more of those entities, to design and implement character education programs that may be integrated into classroom instruction and may be carried out with other educational reforms.

~~2. The department of education shall establish a character education pilot program to evaluate methods for incorporating positive character qualities into all levels of the existing educational program. Schools involved in the pilot program may use phase III funds in the establishment of the program.~~

3. The department of education shall report to the state board and to the general assembly regarding the success of any ~~pilot programs prior to the completion of the third year of a program~~ character education initiative.

Approved April 5, 2002

CHAPTER 1084

BOARD OF EDUCATIONAL EXAMINERS — LICENSEE DISCIPLINARY INVESTIGATIONS AND PROCEEDINGS

H.F. 2482

AN ACT expanding the board of educational examiners' authority with regard to licensee disciplinary investigations and proceedings.

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

Section 1. Section 272.2, subsection 4, Code Supplement 2001, is amended to read as follows:

4. Enforce rules adopted by the board through revocation or suspension of a license, or by other disciplinary action against a practitioner or professional development program licensed by the board of educational examiners. The board shall designate who may or shall initiate a licensee disciplinary investigation and a licensee disciplinary proceeding, and who shall prosecute a disciplinary proceeding and under what conditions, and shall state the procedures for review by the board of findings of fact if a majority of the board does not hear the disciplinary proceeding. However, in a case alleging failure of a practitioner to fulfill contractual obligations, the person who files a complaint with the board, or the complainant's designee, shall represent the complainant in a disciplinary hearing conducted in accordance with this chapter.

Approved April 5, 2002

CHAPTER 1085

SEX OFFENDERS — ISSUANCE OF NO-CONTACT ORDER UPON DEFENDANT'S RELEASE FROM CONFINEMENT

H.F. 2506

AN ACT relating to the issuance of a no-contact order against a defendant convicted of a sexual offense upon the defendant's release from jail or prison.

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

Section 1. NEW SECTION. 709.19 NO-CONTACT ORDER UPON DEFENDANT'S RELEASE FROM JAIL OR PRISON.

1. Upon the filing of an affidavit by a victim, or a parent or guardian on behalf of a minor

who is a victim, of a crime of a sexual offense in violation of section 709.2, 709.3, 709.4, 709.8, 709.9, 709.11, 709.12, 709.14, 709.15, or 709.16, which states that the presence of or contact with the defendant whose release from jail or prison is imminent or who has been released from jail or prison continues to pose a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family, the court shall enter a temporary no-contact order which shall require the defendant to have no contact with the victim, persons residing with the victim, or members of the victim's immediate family.

2. A temporary restraining order issued under this section shall expire at such time as the court directs, not to exceed ten days from the date of issuance. The court, for good cause shown before expiration of the order, may extend the expiration date of the order for up to ten days, or for a longer period agreed to by the adverse party.

3. Upon motion of the party, the court shall issue a no-contact order which shall require the defendant to have no contact with the victim, persons residing with the victim, or members of the victim's immediate family if the court, after a hearing, finds by a preponderance of the evidence, that the defendant poses a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family.

4. A no-contact order shall set forth the reasons for the issuance of the order, be specific in terms, and describe in reasonable detail the purpose of the order.

5. The court shall set the duration of the no-contact order for the period it determines is necessary to protect the safety of the victim, persons residing with the victim, or members of the victim's immediate family, but the duration shall not be set for a period in excess of one year from the date of the issuance of the order. The victim, at any time within ninety days before the expiration of the order, may apply for a new no-contact order under this section.

6. Violation of a no-contact order issued under this section constitutes contempt of court and may be punished by contempt proceedings.

Approved April 5, 2002

CHAPTER 1086

TRUSTS AND ESTATES — MEDICAL ASSISTANCE BENEFITS — INTEREST DISCLAIMERS — TOTAL RETURN UNITRUSTS

H.F. 2539

AN ACT relating to trusts and estates and their relationship to medical assistance benefits, the right to disclaim on behalf of a ward, the creation of total return unitrusts, and providing an effective date.

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

Section 1. Section 249A.2, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 11. "Retained life estate" means any of the following:

a. A life estate created by the recipient or recipient's spouse, in which either the recipient or the recipient's spouse held any interest in the property at the time of the creation of the life estate.

b. A life estate created for the benefit of the recipient or the recipient's spouse in property in which either the recipient or the recipient's spouse held any interest in the property within five years prior to the creation of the life estate.

Sec. 2. Section 249A.5, subsection 2, paragraphs b and c, Code 2001, are amended to read as follows:

b. If the collection of all or part of a debt is waived pursuant to subsection 2, paragraph "a", ~~subparagraph (1)~~, the amount waived shall be a debt due from the estate of the recipient's surviving spouse, ~~or child who is blind or has a disability, or the recipient of a hardship waiver under subsection 2, paragraph "a", subparagraph (2)~~, upon the death of ~~the such spouse, or child or recipient~~, or due from a surviving child who was under twenty-one years of age at the time of the recipient's death, upon the child reaching age twenty-one, to the extent the recipient's estate is received by ~~the surviving such spouse, or child, or recipient~~.

c. For purposes of this section, the estate of a medical assistance recipient, surviving spouse, or surviving child includes any real property, personal property, or other asset in which the recipient, spouse, or child had any legal title or interest at the time of the recipient's, spouse's, or child's death, to the extent of such interests, including but not limited to interests in jointly held property, retained life estates, and interests in trusts.

Sec. 3. Section 633.647, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 6A. To exercise the right to disclaim on behalf of the ward as provided in section 633.704.

Sec. 4. Section 633.704, subsection 3, paragraph c, Code 2001, is amended to read as follows:

c. DEATH OR DISABILITY OF DISCLAIMANT. If a person eligible to disclaim dies within the time allowed for a disclaimer, the right to disclaim continues for the time allowed and the personal representative of the person eligible to disclaim has the same right to disclaim as the disclaimant ~~and may disclaim on behalf of the personal representative's decedent~~. If a person entitled to disclaim is disabled, the court may authorize or direct a conservator or guardian to exercise the right to disclaim on behalf of the person under disability if the court finds it is in the person's best interests pursuant to section 633.647.

Sec. 5. Section 637.601, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

637.601 DEFINITIONS.

For purposes of this section:

1. "Disinterested person" means a person who is not a related or subordinate party as defined in section 672(c) of the Internal Revenue Code with respect to the person acting as trustee of the trust and excludes the trustor of the trust and any interested trustee.

2. "Income trust" means a trust, created by either an inter vivos or a testamentary instrument, which directs or permits the trustee to distribute the net income of the trust to one or more persons, either in fixed proportions or in amounts or proportions determined by the trustee. However, a trust that does not meet this definition is nonetheless an income trust if the trust is subject to taxation under section 2001 or 2501 of the Internal Revenue Code, until the expiration of the period for filing the return, including extensions.

3. "Interested distributee" means a person, to whom distributions of income or principal can currently be made, who has the power to remove the existing trustee and designate as successor a person who may be a related or subordinate party, as defined in section 672(c) of the Internal Revenue Code, with respect to such distributee.

4. "Interested trustee" means any of the following:

a. An individual trustee to whom the net income or principal of the trust can currently be distributed or would be distributed if the trust were to terminate and be distributed.

b. Any trustee who may be removed and replaced by an interested distributee.

c. An individual trustee whose legal obligation to support a beneficiary may be satisfied by distributions of income and principal of the trust.

5. "Total return unitrust" means an income trust which has been converted under and meets the provisions of this subchapter.

6. "Trustee" means a person acting as trustee of the trust, except where expressly noted otherwise, whether acting in the trustee's discretion or on the direction of one or more persons acting in a fiduciary capacity.

7. "Trustor" means an individual who creates an inter vivos or a testamentary trust.

8. "Unitrust amount" means an amount computed as a percentage of the fair market value of the trust.

Sec. 6. NEW SECTION. 637.602 TRUSTEE'S AUTHORITY TO CONVERT.

A trustee, other than an interested trustee, or, where two or more persons are acting as trustee, a majority of the trustees who are not interested trustees, may, in the trustee's sole discretion and without the approval of the court, do any of the following subject to the requirements of section 637.603:

1. Convert an income trust to a total return unitrust.
2. Reconvert a total return unitrust to an income trust.
3. Change the method used to determine the fair market value of the trust.

Sec. 7. NEW SECTION. 637.603 TRUSTEE REQUIREMENTS TO CONVERT OR CHANGE COMPUTATION METHOD.

A trustee may proceed to take action under section 637.602 if all of the following apply:

1. The trustee adopts a written policy for the trust as follows:
 - a. In the case of a trust being administered as an income trust, requiring that future distributions from the trust will be unitrust amounts rather than net income.
 - b. In the case of a trust being administered as a total return unitrust, requiring that future distributions from the trust will be net income rather than unitrust amounts.
 - c. Requiring that the method used to determine the fair market value of the trust will be changed as stated in the policy.
2. The trustee sends written notice of the trustee's intention to take any action described in subsection 1, along with copies of such written policy and this subchapter, to all of the following persons:
 - a. The trustor of the trust, if living.
 - b. All living persons who are currently receiving or eligible to receive distributions of income of the trust.
 - c. All living persons who would receive principal of the trust if the trust were to terminate at the time of the giving of such notice, without regard to the exercise of any power of appointment or, if the trust does not provide for its termination, all living persons who would receive or be eligible to receive distributions of income or principal of the trust if the persons identified in paragraph "b" were deceased.
 - d. All persons named in the governing instrument as adviser to or protector of the trust.
3. At least one person receiving notice under subsection 2, paragraph³ "b" and "c", is legally competent.
4. No person receiving such notice under subsection 2, objects, by written instrument delivered to the trustee, to the proposed action of the trustee within sixty days of receipt of such notice.

Sec. 8. NEW SECTION. 637.604 INTERESTED TRUSTEE'S AUTHORITY TO CONVERT.

If there is no trustee of the trust other than an interested trustee, the interested trustee or, where two or more persons are acting as trustee and are interested trustees, a majority of such interested trustees may, in the trustee's sole discretion and without the approval of the court, do any of the following subject to the requirements of section 637.605:

1. Convert an income trust to a total return unitrust.
2. Reconvert a total return unitrust to an income trust.
3. Change the method used to determine the fair market value of the trust.

³ According to enrolled Act

Sec. 9. NEW SECTION. 637.605 INTERESTED TRUSTEE REQUIREMENTS TO CONVERT OR CHANGE COMPUTATION METHOD.

An interested trustee may proceed to take action under section 637.604 if all of the following apply:

1. The trustee adopts a written policy for the trust as follows:
 - a. In the case of a trust being administered as an income trust, requiring that future distributions from the trust will be unitrust amounts rather than net income.
 - b. In the case of a trust being administered as a total return unitrust, requiring that future distributions from the trust will be net income rather than unitrust amounts.
 - c. Requiring that the method used to determine the fair market value of the trust will be changed as stated in the policy.
2. The trustee appoints a disinterested person who, in its sole discretion, but acting in a fiduciary capacity, determines for the trustee the method to be used in determining the fair market value of the trust, and which assets, if any, are to be excluded in determining the unitrust amount.
3. The trustee sends written notice of the trustee's intention to take any action described in subsection 1, along with copies of such written policy, this subchapter, and the determination of the disinterested person to all of the following persons:
 - a. The trustor of the trust, if living.
 - b. All living persons who are currently receiving or eligible to receive distributions of income of the trust.
 - c. All living persons who would receive principal of the trust if the trust were to terminate at the time of the giving of such notice, without regard to the exercise of any power of appointment or, if the trust does not provide for its termination, all living persons who would receive or be eligible to receive distributions of income or principal of the trust if the persons identified in paragraph "b" were deceased.
 - d. All persons named in the governing instrument as adviser to or protector of the trust.
4. At least one person receiving notice under subsection 3, paragraphs "b" and "c", is legally competent.
5. No person receiving the notice described in subsection 3 objects, by written instrument delivered to the trustee, to the proposed action of the trustee within sixty days of receipt of such notice.

Sec. 10. NEW SECTION. 637.606 PETITION TO COURT TO CONVERT TRUST.

If any trustee desires to do any of the following but does not have the ability to or elects not to do so under the provisions of section 637.602 or 637.604, the trustee may petition the court for such order as the trustee deems appropriate:

1. Convert an income trust to a total return unitrust.
2. Reconvert a total return unitrust to an income trust.
3. Change the percentage used to calculate the unitrust amount or the method used to determine the fair market value of the trust.

If, however, there is only one trustee of such trust and such trustee is an interested trustee or in the event there are two or more trustees of such trust and a majority of them are interested trustees, the court, in its own discretion or upon the petition of such trustee or trustees or any person interested in the trust, may appoint a disinterested person who, acting in a fiduciary capacity, shall present such information to the court as necessary to enable the court to make its determinations.

Sec. 11. NEW SECTION. 637.607 VALUATION OF TRUST.

The fair market value of the trust shall be determined at least annually, using such valuation date or dates or averages of valuation dates as are deemed appropriate. Assets for which a fair market value cannot be readily ascertained shall be valued using such valuation methods as are deemed reasonable and appropriate. Such assets may be excluded from valuation, pro-

vided all income received with respect to such assets is distributed to the extent distributable in accordance with the terms of the governing instrument.

Sec. 12. NEW SECTION. 637.608 PAYOUT PERCENTAGE.

The annual unitrust payout percentage shall be four percent unless the governing instrument specifically provides a different percentage or the court approves a percentage of not less than three percent or more than five percent after notice of intent to seek a payout percentage other than four percent has been given to all of the following persons:

1. The trustor of the trust, if living.
2. All living persons who are currently receiving or eligible to receive distributions of income of the trust.
3. All living persons who would receive principal of the trust if the trust were to terminate at the time of the giving of such notice without regard to the exercise of any power of appointment or, if the trust does not provide for its termination, all living persons who would receive or be eligible to receive distributions of income or principal of the trust if the persons identified in subsection 2 were deceased.
4. All persons named in the governing instrument as adviser to or protector of the trust.

Sec. 13. NEW SECTION. 637.609 UNITRUST AMOUNT.

The unitrust amount shall not be less than the net income of the trust, determined without regard to the provisions of section 637.610 for any of the following:

1. A trust for which a marital deduction has been taken for federal tax purposes under section 2056 or 2523 of the Internal Revenue Code, during the lifetime of the spouse for whom the trust was created.
2. A trust to which the generation-skipping transfer tax due under section 2601 of the Internal Revenue Code does not apply by reason of any effective date or transition rule.

Sec. 14. NEW SECTION. 637.610 PROCEDURE UPON CONVERSION OF INCOME TRUST TO TOTAL RETURN UNITRUST.

Following the conversion of an income trust to a total return unitrust, the trustee:

1. Shall treat the unitrust amount as if it were net income of the trust for purposes of determining the amount available, from time to time, for distribution from the trust.
2. Shall allocate an amount to trust income, not in excess of the annual unitrust payout amount, in the following order:
 - a. The amount derived from net income, as determined if the trust were other than a total return unitrust.
 - b. The amount derived from other ordinary income as determined for federal income tax purposes.
 - c. The amount derived from net realized short-term capital gains as determined for federal income tax purposes.
 - d. The amount derived from net realized long-term capital gains as determined for federal income tax purposes.
 - e. The amount derived from trust principal.

Sec. 15. NEW SECTION. 637.611 TOTAL RETURN UNITRUST ADMINISTRATION.

In administering a total return unitrust, the trustee may, in the trustee's sole discretion but subject to the provisions of the governing instrument, determine all of the following:

1. The effective date of the conversion.
2. The timing of distributions, including provisions for prorating a distribution for a short year in which a beneficiary's right to payments commences or ceases.
3. Whether distributions are to be made in cash or in kind or partly in cash and partly in kind.
4. If the trust is reconverted to an income trust, the effective date of such reconversion.
5. Such other administrative issues as may be necessary or appropriate to carry out the purposes of this subchapter.

Sec. 16. NEW SECTION. 637.612 PRINCIPAL DISTRIBUTIONS SUBJECT TO GOVERNING INSTRUMENT.

Conversion to a total return unitrust under the provisions of this subchapter shall not affect any other provision of the governing instrument, if any, regarding distributions of principal.

Sec. 17. NEW SECTION. 637.613 CONSTRUCTION AND APPLICABILITY.

This subchapter shall be construed as pertaining to the administration of a trust and shall be available to any trust that is administered in Iowa under Iowa law unless any of the following apply:

1. The governing instrument reflects an intention that the current beneficiary or beneficiaries are to receive an amount other than a reasonable current return from the trust.
2. The trust is a trust described in section 170(f)(2)(B), 664(d), 1361(d), 2702(a)(3), or 2702(b) of the Internal Revenue Code.
3. One or more persons to whom the trustee could distribute income have a power of withdrawal over the trust that is not subject to an ascertainable standard under section 2041 or 2514 of the Internal Revenue Code or that can be exercised to discharge a duty of support the person possesses.
4. The governing instrument expressly prohibits use of this subchapter by specific reference to the subchapter. A provision in the governing instrument that the provisions of sections 637.601 through 637.615 or any corresponding provision of future law shall not be used in the administration of this trust or similar words reflecting such intent shall be sufficient to preclude the use of this subchapter.

Sec. 18. NEW SECTION. 637.614 GOOD FAITH ACTIONS.

Any trustee or disinterested person who in good faith takes or fails to take any action under this subchapter shall not be liable to any person affected by such action or inaction, regardless of whether such person received written notice as provided in this subchapter and regardless of whether such person was under a legal disability at the time of the delivery of such notice. Such person's exclusive remedy shall be to obtain an order of the court directing the trustee to convert an income trust to a total return unitrust, or to reconvert a total return unitrust to an income trust.

Sec. 19. NEW SECTION. 637.615 EFFECTIVE DATE.

This subchapter takes effect upon the effective date of this Act and applies to trusts in existence on that date or created after that date.

SUBCHAPTER 7
MISCELLANEOUS PROVISIONS

Sec. 20. NEW SECTION. 637.701 APPLICATION OF CHAPTER TO EXISTING TRUSTS AND ESTATES — CHAPTER PREVAILS.

This chapter applies to every trust or decedent's estate on and after July 1, 2000, except as otherwise expressly provided in the will, the terms of the trust, or this chapter. Notwithstanding any Code provision to the contrary, the provisions of this chapter shall prevail over any other applicable Code provision.

Sec. 21. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 5, 2002

CHAPTER 1087
SMALL CLAIMS JURISDICTION
H.F. 518

AN ACT relating to jurisdictional changes to small claims court cases.

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

Section 1. Section 631.1, subsection 1, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

A civil action for a money judgment where the amount in controversy is ~~three thousand dollars or less for actions commenced on or after July 1, 1994, and before July 1, 1995,~~ and four thousand dollars or less for actions commenced ~~on or after~~ before July 1, 1995 2002, and five thousand dollars or less for actions commenced on or after July 1, 2002, exclusive of interest and costs.

Sec. 2. Section 631.1, subsections 3, 4, and 5, Code Supplement 2001, are amended to read as follows:

3. The district court sitting in small claims has concurrent jurisdiction of an action of replevin if the value of the property claimed is ~~three thousand dollars or less for actions commenced on or after July 1, 1994, and before July 1, 1995,~~ and four thousand dollars or less for actions commenced ~~on or after~~ before July 1, 1995 2002, and five thousand dollars or less for actions commenced on or after July 1, 2002. When commenced under this chapter, the action is a small claim for the purposes of this chapter.

4. The district court sitting in small claims has concurrent jurisdiction of motions and orders relating to executions against personal property, including garnishments, where the value of the property or garnisheed money involved is ~~three thousand dollars or less for actions commenced on or after July 1, 1994, and before July 1, 1995,~~ and four thousand dollars or less for actions commenced ~~on or after~~ before July 1, 1995 2002, and five thousand dollars or less for actions commenced on or after July 1, 2002.

5. The district court sitting in small claims has concurrent jurisdiction of an action for abandonment of a manufactured or mobile home or personal property pursuant to section 555B.3, if no money judgment in excess of four thousand dollars is sought for actions commenced ~~on or after~~ before July 1, 1995 2002, and five thousand dollars or less for actions commenced on or after July 1, 2002. If commenced under this chapter, the action is a small claim for the purposes of this chapter.

Sec. 3. JURISDICTIONAL AMOUNT REVERSION. The jurisdictional amount in sections 1 and 2 of this Act, which amends section 631.1, shall revert to four thousand dollars if a court of competent jurisdiction declares the five thousand dollar amount unconstitutional.

Approved April 8, 2002

CHAPTER 1088CITY AND COUNTY ASSESSORS —
CANDIDACY FOR ELECTIVE PUBLIC OFFICE*H.F. 2009*

AN ACT allowing an assessor to be a candidate for elective public office and providing an effective date.

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

Section 1. Section 441.17, subsection 1, Code Supplement 2001, is amended to read as follows:

1. Devote full time to the duties of the assessor's office and shall not engage in any occupation or business interfering or inconsistent with such duties. This subsection does not preclude an assessor from being a candidate for elective office during the term of appointment as assessor. If an assessor is elected to a city or county office, to a statewide elective office, or to the general assembly, the assessor shall resign as assessor before the beginning of the term of the office to which the assessor was elected.

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

Approved April 8, 2002

CHAPTER 1089

CITY REAL ESTATE — ATTACHMENT OF JUDGMENT LIENS

H.F. 2291

AN ACT relating to judgment liens attaching to city real estate.

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

Section 1. Section 624.23, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 5. A judgment lien attaching to the real estate of a city may be discharged at any time by the city filing with the clerk of the district court in which the judgment was entered a bond in the amount for which the judgment was entered, including court costs and accruing interest, with surety or sureties to be approved by the clerk, conditioned for the payment of the judgment amount, interest, and court costs. If the real estate is located in a county other than that in which the judgment was entered, the clerk of the district court in which the judgment was entered shall certify to the clerk of the district court of the county in which the real estate is located that the bond has been filed.

NEW SUBSECTION. 6. A judgment against a city shall not give rise to a lien attaching to the streets, alleys, or utility easements of a city or attaching to the real estate of a city which is used by the city for transportation, health, safety, or utility purposes.

Approved April 8, 2002

CHAPTER 1090UNEMPLOYMENT BENEFITS
CONTESTED CASE HEARING RECORDS — RETENTION*H.F. 2344*

AN ACT relating to the retention of unemployment benefits contested case hearing records.

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

Section 1. Section 96.11, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 11A. UNEMPLOYMENT BENEFITS CONTESTED CASE HEARING RECORDS. Notwithstanding the provisions of section 17A.12 to the contrary, the recording of oral proceedings of a hearing conducted before an administrative law judge pursuant to section 96.6, subsection 3, in which the decision of the administrative law judge is not appealed to the employment appeal board, shall be filed with and maintained by the department for at least two years from the date of decision.

Approved April 8, 2002

CHAPTER 1091GROUNDWATER AND SOIL CONTAMINANT STANDARDS —
LAND RECYCLING AND REMEDIATION*H.F. 2417*

AN ACT relating to statewide standards, site-specific cleanup standards, and public participation in the Iowa land recycling and environmental remediation standards Act.

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

Section 1. Section 455H.203, subsection 2, Code 2001, is amended to read as follows:

2. In establishing these standards, all of the following shall be considered:

a. Separate standards shall be established for hazardous substances in soil, in groundwater which is a protected groundwater source, and in groundwater which is not a protected groundwater source.

b. In groundwater which is a protected groundwater source, the standards shall be ~~no more protective than the least restrictive~~ of the maximum contaminant levels established pursuant to the department's drinking water standards, ~~a standard reflecting an increased cancer risk of one in one million, or a standard reflecting a noncancer health risk of one or, for contaminants that do not have established drinking water standards, the standards shall be derived in a manner comparable to that used for establishment of drinking water standards.~~ a standard reflecting an increased cancer risk of one in one million, or a standard reflecting a noncancer health risk of one or, for contaminants that do not have established drinking water standards, the standards shall be derived in a manner comparable to that used for establishment of drinking water standards. An affected area shall not be required to be cleaned up to concentration levels below or more restrictive than background levels.

c. In groundwater which is not a protected groundwater source, the standards shall be no more protective than ~~the least restrictive of a standard reflecting an increased cancer risk of one in ten thousand from exposure to contaminants that are known or probable human carcinogens; a standard reflecting a noncancer health risk of one-tenth from exposure to contaminants that are possible human carcinogens; or a standard reflecting a noncancer health risk of one from exposure to contaminants that are not known, probable, or possible human carcinogens.~~ a standard reflecting an increased cancer risk of one in ten thousand from exposure to contaminants that are known or probable human carcinogens; a standard reflecting a noncancer health risk of one-tenth from exposure to contaminants that are possible human carcinogens; or a standard reflecting a noncancer health risk of one from exposure to contaminants that are not known, probable, or possible human carcinogens.

ogens. An affected area shall not be required to be cleaned up to levels below or more restrictive than background levels.

d. In soil, the standards shall be no more protective than ~~the least restrictive of~~ a standard reflecting an increased cancer risk of ~~one five~~ in one million from exposure to contaminants that are known or probable human carcinogens; a standard reflecting a noncancer health risk of one-tenth from exposure to contaminants that are possible human carcinogens; or a standard reflecting a noncancer health risk of one from exposure to contaminants that are not known, probable, or possible human carcinogens. An affected area shall not be required to be cleaned up to concentration levels below or more restrictive than background levels.

e. Statewide standards specified in paragraphs "b", "c", and "d" assume exposure to individual contaminants in groundwater or soil. If more than one contaminant exists in a medium or exposure to contaminants can occur from more than one medium, standards shall be adjusted to reflect a cumulative increased cancer risk that is no less protective than one in ten thousand and a cumulative noncancer health risk to the same target human organ that is no less protective than one. Risks associated with background levels of contaminants shall not be included in the cumulative risk determination.

Sec. 2. Section 455H.204, subsection 2, paragraph f, Code 2001, is amended to read as follows:

f. Cleanup shall not be required in an affected area that does not present any of the following:

(1) An increased cancer risk from a single contaminant at the point of exposure of ~~one five~~ in one million for residential areas or one in ten thousand for nonresidential areas.

(2) An increased ~~noncancer health risk at the point of exposure of greater than one cancer risk from multiple contaminants or multiple routes of exposure greater than one in ten thousand.~~

(3) An increased noncancer health risk from a single contaminant at the point of exposure of greater than one, or greater than one-tenth for possible carcinogens.

(4) An increased noncancer risk to the same target human organ from multiple contaminants or multiple routes of exposure greater than one.

Sec. 3. NEW SECTION. 455H.208 PUBLIC PARTICIPATION.

Public participation shall be a required component of the process for participants for all sites enrolled in the land recycling program. The required level of public participation shall vary depending on the conditions existing at a site. At a minimum, the department shall notify all adjacent property owners, occupants of adjacent property, and the city or county in which the property is located of a site's enrollment in the land recycling program and of the scope of work described in the participation agreement; and give the notified parties the opportunity to obtain updates regarding the status of activities relating to the enrolled site in the land recycling program. The notification shall not be required before the participant has had the opportunity to collect basic information characterizing the nature and extent of the contamination but the notification shall be required in a timely manner allowing appropriate parties to have input in the formulation of the response action. If contaminants from the enrolled site have migrated off the enrolled site or are likely to migrate off the enrolled site, as determined by the department, the department shall notify by direct mailing all potentially affected parties, including the city or county in which the potentially affected property is located, and officials of any potentially impacted public water supply and the notified parties shall be given opportunity to comment on proposed response actions. The department may require the participant of an enrolled site to publish public notice in a local newspaper if widespread interest in the site exists or is likely to exist as determined by the department. The department shall consider reasonable comments from potentially affected parties in determining whether to approve or disapprove a proposed response action or site closure.

Approved April 8, 2002

CHAPTER 1092

POSSESSION AND DISTRIBUTION OF ANTHRAX

H.F. 2507

AN ACT creating a criminal offense for possession or distribution of anthrax, and providing a penalty.

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

Section 1. NEW SECTION. 126.24 ANTHRAX.

1. UNLAWFUL POSSESSION. Any person who knowingly possesses bacillus anthracis or any substance containing bacillus anthracis, is guilty of a class "C" felony.

2. UNLAWFUL DISTRIBUTION. Any person who knowingly distributes bacillus anthracis or any substance containing bacillus anthracis to any other person which may or may not cause exposure to bacillus anthracis, is guilty of a class "B" felony.

3. EXCEPTIONS. This section shall not apply to a person who possesses or distributes bacillus anthracis or any substance containing bacillus anthracis which is being used solely for a purpose which is lawfully authorized under federal law.

Approved April 8, 2002

CHAPTER 1093

PSEUDORABIES CONTROL

H.F. 2530

AN ACT providing for the control of pseudorabies, making penalties applicable, and providing an effective date.

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

Section 1. Section 166D.10, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. For swine which is exposed or swine from a herd of unknown status, a person shall not move or relocate the swine, unless one of the following applies:

(1) The swine reacts negatively to a differentiable test within thirty days prior to moving or relocating the swine.

(2) The swine moves by restricted movement to either a fixed concentration point or slaughtering establishment.

Sec. 2. Section 166D.10, subsection 3, Code 2001, is amended by adding the following new paragraph after paragraph b, and relettering the subsequent paragraph:

NEW PARAGRAPH. bb. For swine from a herd of unknown status, a person shall not move or relocate the swine, unless one of the following applies:

(1) The swine reacts negatively to a differentiable test within thirty days prior to moving or relocating the swine.

(2) The swine moves by restricted movement to either a fixed concentration point or slaugh-

tering establishment. However, the swine is not required to move by restricted movement, if the swine is moved from a fixed concentration point directly to another fixed concentration point or to a slaughtering establishment.

Sec. 3. Section 166D.10, subsection 4, paragraph b, subparagraph (2), subparagraph subdivision (a), Code 2001, is amended to read as follows:

(a) Except as provided in this subparagraph, the owner of swine shall vaccinate the swine with a modified-live differentiable vaccine, prior to moving swine into the stage II county. ~~A statistical sampling of the swine moved into a herd as provided in this subparagraph shall be tested using a differentiable test within thirty days after the swine is moved to a herd in this state. If a swine reacts positively to the test, the herd is an infected herd. A person is not required to vaccinate swine prior to moving swine into the stage II county or test the swine after the swine has been moved to a herd in the stage II county, if one of the following applies:~~

Sec. 4. Section 166D.10, subsection 4, paragraph b, subparagraph (2), subparagraph subdivision (b), subparagraph subdivision parts (i) and (ii), Code 2001, are amended to read as follows:

(i) ~~For swine other than swine moved into a herd within a stage II county as an isowean feeder pig, a statistical sampling of the swine moved into the herd shall be tested using a differentiable test within forty-eight hours after the swine moves to a herd in this state. If a swine reacts positively to the test, the herd is an infected herd. If, according to the statistical sampling, the swine moved into the herd reacts negatively to the test, all moved the swine must be immediately vaccinated with a differentiable vaccine, as provided in section 166D.11. The swine shall be considered as part of a herd of unknown status, until tested negative and vaccinated.~~

(ii) ~~For swine moved into a herd within a stage II county as an isowean feeder pig, a statistical sampling of the swine moved into the herd shall be tested using a differentiable test when a majority of swine moved together into the herd as isowean feeder pigs reach a weight of more than twenty pounds. If a swine reacts positively to the test, the herd is an infected herd. If, according to the statistical sampling, the swine moved into the herd react negatively to the test, all the swine moved into the herd must be immediately vaccinated with a differentiable vaccine, as provided in section 166D.11. The department may require that the swine be revaccinated with a differentiable vaccine at a later date. The swine shall be considered as part of a herd of unknown status, until tested negative and vaccinated.~~

Sec. 5. Section 166D.10, subsection 6, Code 2001, is amended to read as follows:

6. ~~Known infected swine moved through a fixed concentration point, other than a buying station of a slaughtering establishment, shall only be moved by restricted movement to a slaughtering establishment.~~

Sec. 6. Section 166D.12, subsection 2, paragraph c, Code Supplement 2001, is amended to read as follows:

c. ~~(1) A~~ Except as provided in subparagraph (2), a person shall not move swine subject to restricted movement to or from a fixed concentration point 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.

(2) A person may move swine from a herd of unknown status from a fixed concentration point other than by restricted movement as provided in section 166D.10A, if the person moves the swine directly to another fixed concentration point or to a slaughtering establishment.

Sec. 7. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 8, 2002

CHAPTER 1094

ASSAULT — INTENT REQUIREMENTS

H.F. 2546

AN ACT classifying the criminal offense of assault as a general intent crime.

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

Section 1. Section 708.1, unnumbered paragraph 1, and subsections 1 through 3, Code 2001, are amended to read as follows:

An assault as defined in this section is a general intent crime. A person commits an assault when, without justification, the person does any of the following:

1. Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act.
2. Any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.
3. Intentionally points any firearm toward another, or displays in a threatening manner any dangerous weapon toward another.

Approved April 8, 2002

CHAPTER 1095

REGULATION OF BEEF AND PORK PROCESSORS

S.F. 2309

AN ACT providing for regulation of processors, providing for penalties, and providing an effective date and for retroactive applicability.

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

Section 1. Section 9H.1, Code 2001, is amended by adding the following new subsections:
NEW SUBSECTION. 4A. "Base price" means the price paid for swine, delivered to the processor, before application of any premiums or discounts, and expressed in dollars per hundred pounds of hot carcass weight as calculated in the same manner as provided in 7 C.F.R. § 59.30.

NEW SUBSECTION. 5A. "Business association" means a person organized under statute or common law in this state or another jurisdiction for purposes of engaging in a commercial activity on a profit, cooperative, or not-for-profit basis, including but not limited to a corporation or entity taxed as a corporation under the Internal Revenue Code, nonprofit corporation, cooperative association, partnership, limited partnership, limited liability company, limited liability partnership, investment company, joint stock company, joint stock association, or trust, including but not limited to a business trust.

NEW SUBSECTION. 5B. "Cash or spot market purchase" means the purchase of swine by a processor from a seller, if the swine are slaughtered not more than fourteen days after the date that the seller and the processor agree on a date of delivery of the swine for slaughter and

the base price for purchasing the swine is determined by an oral or written agreement between seller and processor executed on the day the swine are delivered for slaughter.

NEW SUBSECTION. 5C. "Cattle operation" means a location including but not limited to a building, lot, yard, corral, or other place where cattle for slaughter are fed or otherwise maintained.

NEW SUBSECTION. 6B. "Cooperative association" means the same as defined in section 10.1.

NEW SUBSECTION. 14A. "Indirect" means to act or attempt to accomplish an act through an interest in a business association, through one or more affiliates or intermediaries, or by any method other than a direct approach, including by any circuitous or oblique method.

NEW SUBSECTION. 19A. "Qualified processor" means a processor of pork products if all of the following apply:

a. (1) (a) Swine producers exercise a controlling interest in the processor. "Controlling interest" means actual control or the possession directly or indirectly of the power to direct or cause the direction of the management and policies of a processor, whether through the ownership of voting securities, by contract, or otherwise.

(b) Of the total interest held by all persons in the processor, swine producers hold at least sixty percent of the interest. In addition, of the total interest held by all persons in the processor, swine producers hold at least sixty percent of interests with voting rights.

(2) Of the total interest held by all persons in the processor, all retailers hold a total of not more than twenty percent of the interest.

b. Another processor does not hold a direct or indirect interest in the processor. However, this paragraph does not apply to a person deemed to be a processor solely because the person holds a threshold interest in the processor.

c. Not less than twenty-five percent of the swine slaughtered by the processor each day are purchased through cash or spot market purchases from sellers of swine who do not hold a direct or indirect interest in the processor.

NEW SUBSECTION. 19B. "Retailer" means a person who is engaged in the business of selling pork products in this state, if all of the following apply:

a. The pork products are sold only on a retail basis directly to the ultimate purchasers of the pork products for consumption and not for resale.

b. The person is not engaged in the slaughter of swine.

c. A processor does not have a direct or indirect interest in the person.

NEW SUBSECTION. 20A. "Swine operation" means a location where swine are fed or otherwise maintained, including a building, lot, yard, or corral; and swine which are fed or otherwise maintained at the location.

NEW SUBSECTION. 20B. "Swine producer" means a person who owns, controls, or operates a swine operation in this state or who contracts for the care and feeding of swine in this state.

Sec. 2. Section 9H.1, subsection 19, Code 2001, is amended to read as follows:

19. "Processor" means a person, ~~firm, corporation, limited liability company, or limited partnership, which~~ who alone or in conjunction with others, directly or indirectly controls the manufacturing, processing, or preparation for sale of beef or pork products, having including the slaughtering of cattle or swine or the manufacturing or preparation of carcasses or goods originating from the carcasses, if the beef or pork products have a total annual wholesale value of ten eighty million dollars or more for the person's tax year. ~~Any A person, firm, corporation, limited liability company, or limited partner with a~~ shall be deemed to be a processor, if any of the following applies:

a. The person has a threshold interest in a processor which is a business association. "Threshold interest" means a direct or indirect interest in the business association, calculated as follows:

(1) For a processor of beef products, the person's threshold interest begins at ten percent

or greater interest in another person, firm, corporation, limited liability company, or limited partnership involved in the manufacturing, processing or preparation for sale of beef or pork products having a total annual wholesale value of ten million dollars or more shall also be considered a processor.

(2) For a processor of pork products, the person's threshold interest begins at ten percent for a processor of pork products having a total annual wholesale value of at least eighty million dollars and decreases to one percent for a processor of pork products having a total annual wholesale value of at least two hundred sixty million dollars. The amount of the decrease in the amount of the threshold interest shall equal one percent for each increased increment of twenty million dollars in total annual wholesale value.

b. The person holds an executive position in a processor of pork products or owes a processor of pork products a fiduciary duty, if the processor directly or indirectly controls the processing of pork products having a total annual wholesale value of two hundred sixty million dollars or more. A person who held such an executive position or owed a fiduciary duty shall be deemed to still hold the position or owe the duty for a two-year period following the date that the person relinquishes the position or duty. An executive position in a processor organized as a business association includes but is not limited to a member of a board of directors or an officer of a corporation or cooperative association, a director or officer of a joint stock company or joint stock association, a manager of a limited liability company, a general partner of a limited partnership, or a trustee of a trust.

Sec. 3. Section 9H.1, subsection 12, Code 2001, is amended by striking the subsection.

Sec. 4. Section 9H.2, Code 2001, is amended to read as follows:

9H.2 PROHIBITED OPERATIONS AND ACTIVITIES — EXCEPTIONS.

~~In order to~~ The purpose of this section is to preserve free and private enterprise, prevent monopoly, and also to protect consumers, it is unlawful for any.

1. Except as provided in subsections 2 through 4, and section 9H.2A, all of the following apply:

a. For cattle, a processor of beef or pork or limited partnership in which a processor holds partnership shares as a general partner or partnership shares as a limited partner, or limited liability company in which a processor is a member, to ~~shall not~~ own, control, or operate a feedlot cattle operation in Iowa in which hogs or cattle are fed for slaughter ~~this state~~.

b. For swine, a processor shall not do any of the following:

(1) (a) Directly or indirectly own, control, or operate a swine operation in this state.

(b) Finance a swine operation in this state or finance a person who directly or indirectly contracts for the care and feeding of swine in this state.

For purposes of subparagraph subdivision (a) and this subparagraph subdivision, all of the following apply:

(i) "Finance" means an action by a processor to directly or indirectly loan money or to guarantee or otherwise act as a surety.

(ii) "Finance" or "control" does not include executing a contract for the purchase of swine by a processor, including but not limited to a contract that contains an unsecured ledger balance or other price risk sharing arrangement. "Finance" also does not include providing an unsecured open account or an unsecured loan, if the unsecured open account or unsecured loan is used for the purchase of feed for the swine and the outstanding amount due by the debtor does not exceed five hundred thousand dollars. However, the outstanding amount due to support a single swine operation shall not exceed two hundred fifty thousand dollars.

(c) Obtain a benefit of production associated with feeding or otherwise maintaining swine, by directly or indirectly assuming a morbidity or mortality production risk, if the swine are fed or otherwise maintained as part of a swine operation in this state or by a person who contracts for the care and feeding of swine in this state.

(d) Directly or indirectly receive the net revenue derived from a swine operation in this state or from a person who contracts for the care and feeding of swine in this state.

~~(2) In addition, a processor shall not directly~~ Directly or indirectly contract for the care and feeding of swine in this state. However, this ~~section~~ subparagraph does not apply to a cooperative association organized under chapter 497, 498, 499, or 501, if the cooperative association contracts for the care and feeding of swine with a member of the cooperative association who is actively engaged in farming. This ~~section~~ subparagraph does not apply to an association organized as a cooperative in which another cooperative association organized under chapter 497, 498, 499, or 501 is a member, if the association contracts with a member which is a cooperative association organized under chapter 497, 498, 499, or 501, which contracts for the care and feeding of swine with a member of the cooperative who is actively engaged in farming.

2. Subsection 1 shall not apply to a swine producer who holds a threshold interest in a qualified processor in the manner provided in section 9H.1, if all of the following apply:

a. The swine producer's threshold interest in the qualified processor is not more than ten percent.

b. The swine producer is not a processor. However, this paragraph does not apply to a swine producer deemed to be a processor solely because the swine producer holds a threshold interest in the qualified processor as otherwise allowed under this subsection or because the swine producer holds an executive position in the qualified processor or owes the qualified processor a fiduciary duty.

3. This section shall not preclude a processor, ~~limited partnership, or limited liability company~~ from contracting ~~from doing any of the following:~~

a. Contracting for the purchase of ~~hogs or cattle or swine~~, provided that where the contract sets a date for delivery which is more than twenty days after the making of the contract ~~it, the contract shall do one of the following:~~

1. (1) Specify a calendar day for delivery of the ~~livestock, or cattle or swine.~~

2. (2) Specify the month for the delivery, and shall allow the farmer to set the week for the delivery within such month and the processor, ~~limited partnership, or limited liability company~~ to set the date for delivery within such week.

b. This section shall not prevent processors or educational institutions from carrying ~~Carrying~~ on legitimate research, educational, or demonstration activities, ~~nor shall it prevent processors from owning.~~

c. ~~Owning~~ and operating facilities to provide normal care and feeding of animals ~~cattle or swine~~ for a period not to exceed ten days immediately prior to slaughter, or for a longer period in an emergency. Any processor or ~~limited partnership which owns, controls, or operates a feedlot on August 15, 1975, shall have until July 1, 1985, to dispose of the property.~~

4. A processor which is ~~was~~ in compliance with this section prior to April 5, 2000, and which is ~~was~~ in violation of this section as a result of 2000 Iowa Acts, chapter 1048, shall have until ~~July 1~~ June 30, 2004, to comply with 2000 Iowa Acts, chapter 1048. A processor shall not take action on or after April 5, 2000, which would be in violation of this section.

Sec. 5. NEW SECTION. 9H.2A COMPLIANCE REQUIREMENTS.

1. A processor that was in compliance with section 9H.2, Code 2001, prior to January 1, 2002, and which is in violation of section 9H.2, as amended by this Act, shall have until June 30, 2004, to comply with section 9H.2, as amended by this Act.

2. Notwithstanding any provision of this section, a processor shall not take an action on or after January 1, 2002, that would be in violation of section 9H.2, as amended by this Act.

3. The two-year period that a person who holds an executive position in a processor or owes a processor a fiduciary duty and thus is deemed to be a processor as provided in section 9H.1, subsection 19, paragraph "b", shall not apply if the person held the position or owed the duty on January 1, 2002, and relinquishes the position or duty on or before June 30, 2004.

4. This section is repealed on July 1, 2006.

Sec. 6. Section 9H.3, Code 2001, is amended to read as follows:

9H.3 PENALTIES FOR PROHIBITED OPERATION — INJUNCTIVE RELIEF.

A processor violating section 9H.2 shall be assessed a civil penalty of not more than twenty-five thousand dollars.

1. The courts of this state may prevent and restrain violations of this chapter through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this chapter.

2. a. A processor who violates section 9H.2 is subject to a civil penalty of not more than twenty-five thousand dollars. Each day that a violation continues shall be considered a separate offense.

b. If the attorney general or a county attorney is the prevailing party in an action for a violation of section 9H.2, the prevailing party shall be awarded court costs and reasonable attorney fees, which shall be taxed as part of the costs of the action. If the attorney general is the prevailing party, the moneys shall be deposited in the general fund of the state. If the county is the prevailing party, the moneys shall be deposited in the general fund of the county.

Sec. 7. Section 9H.9, Code 2001, is amended to read as follows:

9H.9 REPORTS BY PROCESSORS.

~~Any A processor of beef or pork in this state shall file a report with the secretary of state on or before March 31 of each year, a report setting forth as follows:~~

~~1. For all processors, the report shall include all of the following:~~

~~1. a. The number of hogs swine and the number of cattle owned and fed more than thirty days by the processor in Iowa this state during the processor's preceding calendar or fiscal tax year.~~

~~2. b. The total number of hogs swine and the total number of cattle owned and fed more than thirty days by the processor during the processor's preceding calendar year or fiscal tax year.~~

~~3. c. The number of hogs swine and the number of cattle slaughtered in Iowa this state by the processor during the processor's preceding calendar or fiscal tax year.~~

~~4. d. The total number of hogs swine and the total number of cattle slaughtered by the processor during the processor's preceding calendar or fiscal tax year.~~

~~e. The total wholesale value of beef or pork products that have been processed by the processor during the preceding tax year.~~

~~5. f. The total number of hogs swine for which the processor has contracted for feeding as provided in section 9H.2.~~

~~2. For a qualified processor, the report shall include all of the following:~~

~~a. The total number of swine slaughtered each day during the qualified processor's preceding tax year.~~

~~b. The total number of swine slaughtered each day that are purchased through cash or spot market purchases during the qualified processor's preceding tax year.~~

Sec. 8. LEGISLATIVE INTENT — ACTING DIRECTLY AND INDIRECTLY. This Act shall not be interpreted to mean that a person may accomplish an act or attempt to accomplish an act in a manner prohibited by chapter 9H as amended by this Act by using any indirect method, if the person is prohibited by chapter 9H as amended by this Act from accomplishing the act or attempting to accomplish the act directly.

Sec. 9. SEVERABILITY. If any provision of this Act or the application of this Act to any person or circumstance is held invalid, the invalidity does not affect other provisions of this Act or sections 9H.1, 9H.2, 9H.3, and 9H.9 as those provisions existed prior to the effective date of this Act, which shall be given effect without the invalid provision or application, and to this end, the provisions of this Act are severable.

Sec. 10. DIRECTIONS TO CODE EDITOR. The Code editor is directed to do all of the following:

1. Replace the term “hogs” with the term “swine” wherever it appears in chapter 9H for publication in the 2003 Code.

2. Transfer chapter 567 to a new chapter in proximity to chapter 9H for publication in the 2003 Code.

3. Strike section 9H.2, subsection 4, as amended by this Act for publication in the 2005 Code. The Code editor shall internally renumber the section and correct internal references as necessary.

Sec. 11. RETROACTIVE APPLICABILITY. This Act applies retroactively to January 1, 2002.

Sec. 12. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 9, 2002

CHAPTER 1096

DEPOSIT OF PUBLIC FUNDS — UNINSURED FUNDS — REQUIRED COLLATERAL

H.F. 681

AN ACT requiring the pledging of collateral in relation to the deposit of uninsured public funds, making related changes, making penalties applicable, and providing for applicability.

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

Section 1. Section 12C.1, subsection 2, paragraph c, Code Supplement 2001, is amended to read as follows:

c. “Bank” means a corporation engaged in the business of banking authorized by law to receive deposits and whose deposits are insured by the bank insurance fund or the savings association insurance fund of the federal deposit insurance corporation and includes any office of a bank. “Bank” also means a savings and loan or savings association.

Sec. 2. Section 12C.1, subsection 2, Code Supplement 2001, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. “Public officer” means the person authorized by and acting for a public body to deposit public funds of the public body.

NEW PARAGRAPH. h. “Uninsured public funds” means any amount of public funds of a public funds depositor on deposit in an account at a financial institution that exceeds the amount of public funds in that account that are insured by the federal deposit insurance corporation or the national credit union administration.

Sec. 3. Section 12C.2, Code 2001, is amended to read as follows:

12C.2 APPROVAL — REQUIREMENTS.

The approval of a financial institution as a depository of public funds for a public body shall be by written resolution or order which that shall be entered of record in the minutes of the approving board, and which that shall distinctly name each depository approved, and specify the maximum amount which that may be kept on deposit in each depository.

Sec. 4. Section 12C.6A, subsection 2, Code 2001, is amended to read as follows:

2. In addition to establishing a minimum interest rate for public funds pursuant to section

12C.6, the committee composed of the superintendent of banking, the superintendent of credit unions, the auditor of state or a designee, and the treasurer of state shall develop a list of financial institutions eligible to accept state public funds. The committee shall require that a financial institution seeking to qualify for the list shall annually provide the committee a written statement that the financial institution has complied with the requirements of this chapter and has a commitment to community reinvestment consistent with the safe and sound operation of a financial institution, unless the financial institution has received a rating of satisfactory or higher pursuant to the federal Community Reinvestment Act, 12 U.S.C. § 2901 et seq., and such rating is certified to the committee by the superintendent of banking. To qualify for the list a financial institution must demonstrate a continuing commitment to meet the credit needs of the local community in which it is chartered.

Sec. 5. Section 12C.6A, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. To receive challenges from any person to a financial institution's continued eligibility to receive state public funds.

Sec. 6. Section 12C.19, subsection 1, Code 2001, is amended to read as follows:

1. Securities pledged pursuant to this chapter may be withdrawn on application of the pledging depository institution, and as to securities pledged by a credit union, upon approval of the public officer to whom the securities are pledged, if the deposit of securities is no longer necessary to comply with this chapter, or is required for collection by virtue of its maturity or for exchange. The depository institution shall replace securities so withdrawn for collection or exchange.

Sec. 7. NEW SECTION. 12C.20 PUBLIC FUND REPORTS.

1. On or before the tenth day of February, May, August, and November of each year, each savings and loan and each out-of-state bank that has one or more branches in the state shall calculate and certify to the superintendent of banking in the form prescribed by the superintendent the amount of public funds on deposit at the savings and loan and at each such branch of the out-of-state bank as of the end of the previous calendar quarter.

2. A bank shall, upon request of the superintendent, certify to the superintendent the amount of public funds on deposit at the bank and at each branch of an out-of-state bank on any day specified by the superintendent in such request.

3. The superintendent may at any time make such investigation as the superintendent deems necessary and appropriate to verify the information provided to the superintendent pursuant to subsections 1 and 2.

4. On or before the twentieth day of February, May, August, and November of each year, the superintendent shall notify the treasurer of state of the amount of collateral required to be pledged as of the end of the previous calendar quarter based upon the certification provided to the superintendent under subsection 1 or 2 and a review by the superintendent of the quarterly call report filed by each bank that is not a savings and loan or an out-of-state bank.

Sec. 8. NEW SECTION. 12C.22 REQUIRED COLLATERAL — BANKS.

1. A bank shall pledge to the treasurer of state the amount of collateral required under subsection 2 by depositing the collateral in restricted accounts at a financial institution that has been designated by the treasurer of state and that is not owned or controlled directly or indirectly by the bank pledging the collateral or any affiliate of the bank as defined in section 524.1101. Each bank shall execute as debtor and deliver to the treasurer of state a security agreement and such other documents, instruments, and agreements in form approved by the treasurer of state as are required to grant to the treasurer of state, as secured party in its capacity as agent for the depositors of all public funds from time to time deposited in the bank, a perfected security interest in the collateral described in the security agreement. The security agreement shall among other provisions contain all of the following provisions:

a. A security interest in the collateral is granted as collateral for the obligation of the bank to repay all uninsured public funds deposited in the bank.

b. The security interest in the collateral is also granted as collateral security for the obligation of the bank to repay the uninsured public funds deposited in a closed bank by paying an assessment to the treasurer of state to the extent required under section 12C.23A, subsection 3.

c. In the event an assessment is paid by a bank to the treasurer of state pursuant to section 12C.23A, or in the event that collateral pledged by the bank is liquidated pursuant to section 12C.23A, subsection 3, paragraph "e", and the proceeds are used to pay the assessment, the bank is subrogated to the claim of a public funds depositor to the extent the claim is paid from funds paid by the bank or proceeds of collateral pledged by the bank are used to pay the assessment.

d. The treasurer of state is appointed as agent of the bank to assert the claim on behalf of the bank as subrogee. Any amount recovered by the treasurer by reason of the claim shall be deposited in the state sinking fund for public deposits in banks.

2. The amount of the collateral required to be pledged by a bank shall at all times equal or exceed the total of the amount by which the public funds deposits in the bank exceeds the total capital of the bank. For purposes of this chapter, unless the context otherwise requires, "total capital of the bank" means its tier one capital plus both of the following components of tier two capital:

a. Qualifying subordinated debt and redeemable preferred stock.

b. Cumulative perpetual preferred stock.

3. The amount of collateral pledged by an out-of-state bank that operates a branch in Iowa shall be calculated in accordance with the following formula:

a. Total deposits of the bank.

b. Total deposits in Iowa branches of the bank.

c. The total of paragraph "b" divided by the total of paragraph "a", in order to establish the deposits of Iowa branches as a percentage of total deposits.

d. Total capital of the bank as defined in subsection 2.

e. The total of paragraph "d" multiplied by the total of paragraph "c", in order to establish Iowa branch capital.

f. Total public funds deposits in the bank.

g. The excess of the total of paragraph "f" over the total of paragraph "e", if any.

4. The value of the collateral shall be its market value.

5. The treasurer of state shall adopt rules pursuant to chapter 17A to administer this section, including rules to do the following:

a. Designate not less than four financial institutions that may be custodians of collateral pledged under this chapter and establish regulations for qualification and compliance by the custodians and remedies and sanctions for noncompliance by the custodians.

b. Establish requirements for reporting to the treasurer of state by a financial institution of the amount and value of collateral held by the financial institution as custodian of collateral for the uninsured public funds on deposit in a bank.

c. Establish procedures for the valuation of collateral that does not have a readily ascertainable market value.

d. Establish procedures for substituting different collateral for collateral pledged under this section.

e. Establish procedures to determine the amount of the uninsured public funds of each bank or branch of an out-of-state bank as of the date of closing of a closed bank and the amount of the assessment to be made upon each bank.

f. Establish additional procedures necessary to administer this chapter and other rules as may be necessary to accomplish the purposes of this chapter.

g. Provide forms and procedures for compliance with this chapter, including electronic compliance.

h. Establish amounts and procedures for payment of fees to cover the costs of administration of this chapter.

6. The collateral used to secure public deposits shall be in one or more of the following forms acceptable to the treasurer of state:

a. Investment securities and shares in which a bank is permitted to invest under section 524.901, subsections 1, 2, and 3.

b. Investment securities, as defined in section 524.901, subsection 1, paragraph "a", representing general obligations of a state or a political subdivision of a state that is geographically contiguous with the state, provided that such investment securities are rated within the four highest grades according to a reputable rating service or represent unrated issues of equivalent value.

c. Investment securities, as defined in section 524.901, subsection 1, paragraph "a", representing general obligations of a state or a political subdivision of a state that is not contiguous with the state, provided that such investment securities are rated within the two highest grades according to a reputable rating service.

d. Nontransferable letters of credit upon which the payment of principal and interest is fully secured or guaranteed by the United States of America or an agency or instrumentality, including government-sponsored enterprises of the United States of America.

e. Private insurance policies or bonds written by companies approved by the superintendent.

7. A bank may borrow collateral to be pledged under subsection 2 if the collateral is free of any liens, security interests, claims, or encumbrances.

Sec. 9. Section 12C.23A, Code 2001, is amended to read as follows:

12C.23A PAYMENT OF LOSSES IN A BANK.

1. The acceptance of public funds by a bank pursuant to this chapter constitutes ~~consent~~ all of the following:

a. Agreement by the bank to pledge collateral as required by section 12C.22.

b. Consent by the bank to the disposition of the collateral in accordance with this section.

c. Consent by the bank to assessments by the treasurer of state in accordance with this chapter.

d. Agreement by the bank to provide accurate information and to otherwise comply with the requirements of this chapter.

2. ~~The A~~ bank is liable for payment if the bank fails to pay a check, draft, or warrant drawn by ~~the public officer~~ a public funds depositor or to account for a check, draft, warrant, order, or ~~certificates~~ certificate of deposit, or any public funds entrusted to ~~it~~ the bank if, in failing to pay, the bank acts contrary to the terms of an agreement between the bank and the public ~~body treasurer~~ funds depositor. The bank is also liable to the treasurer of state for payment if the bank fails to pay an assessment by the treasurer of state under subsection 3 when the assessment is due.

3. If a bank is closed by its primary ~~regulatory officials~~ state or federal regulator, ~~the public body~~ each public funds depositor with deposits in the bank shall notify the treasurer of state of the amount of any claim within thirty days of the closing. The treasurer of state shall implement the following procedures:

a. In cooperation with the responsible regulatory officials for the closed bank, the treasurer shall validate the amount of public funds on deposit at the ~~defaulting~~ closed bank and the amount of deposit insurance applicable to the deposits.

b. ~~The recovery of any~~ Any loss to public a public funds depositors depositor shall ~~begin with~~ be satisfied first by any federal deposit insurance, ~~then by the sale or other disposition of collateral pledged by the closed bank, then from the assets of the closed bank.~~ The To the extent permitted by federal law, the priority of claims are those established pursuant to section 524.1312, subsection 2. To the extent permitted by federal law, in the distribution of an insolvent federally chartered bank's assets, the order of payment of liabilities, if its assets

are insufficient to pay in full all its liabilities for which claims are made, shall be in the same order as for a ~~state-chartered~~ state bank as provided in section 524.1312, subsection 2.

c. The claim of a public funds depositor for purposes of this section shall be the amount of the depositor's public funds deposits plus interest to the date the funds are distributed to the public funds depositor at the rate the bank agreed to pay on the public funds reduced by the portion of the public funds which ~~that~~ is insured by federal deposit insurance.

d. If the loss ~~to~~ of public funds is not covered by federal deposit insurance and the proceeds of the ~~failed closed~~ bank's assets which ~~that~~ are liquidated within thirty days of the closing of the bank are not sufficient to cover the loss, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the balance in that sinking fund is inadequate to pay the entire loss, then the treasurer shall obtain the additional amount needed by making an assessment against other banks whose public funds deposits exceed federal deposit insurance coverage. A bank's assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors in the closed bank by a percentage that represents ~~that the assessed~~ bank's proportional share of the total of uninsured public funds deposits held by all banks and all branches of out-of-state banks, based upon the average of the uninsured public funds of the assessed bank or branch of an out-of-state bank as of the end of the four calendar quarters prior to the date of closing of the closed bank and the average of the uninsured public funds in all banks and branches of out-of-state banks as of the end of the four calendar quarters prior to the date of closing of the closed bank, excluding the amount of uninsured public funds held by the closed bank at the end of the four calendar quarters held by the closed bank. Each bank shall pay its assessment to the treasurer of state within three business days after it receives notice of assessment.

e. If a bank fails to pay its assessment when due, the treasurer of state shall ~~initiate a lawsuit to collect~~ satisfy the assessment by liquidating collateral pledged by the bank upon such notice as is required by chapter 554. If the collateral pledged by the bank is inadequate to pay the assessment, the treasurer of state shall make additional assessments as may be necessary against other banks that hold uninsured public funds to satisfy any unpaid assessment. Any additional assessments shall be determined, collected, and satisfied in the same manner as the first assessment except that in calculating the amount of each such additional assessment, the amount of uninsured public funds held by the bank that fails to pay the assessment shall not be counted.

f. If the treasurer of state liquidates collateral pledged by a bank, the bank shall within three business days following receipt of notice from the treasurer of state deposit additional collateral to provide the collateral required under section 12C.22.

g. If a bank fails to pay its assessment when due and the proceeds from liquidation of the collateral pledged by the bank are not sufficient to pay the assessment against the bank, the treasurer of state shall notify the superintendent or the comptroller of the currency, as applicable, of the failure to pay the assessment. If the bank that has failed to pay the assessment is a nationally chartered financial institution, the superintendent shall immediately notify the bank's primary federal regulator. If the assessment is not paid within thirty days after the bank received the notice of assessment, the treasurer of state shall initiate a lawsuit to collect the amount of the assessment. If a bank is found to have failed to pay the assessment as required by this paragraph, subsection and is ordered to pay the assessment, the court shall also order it to ~~that the bank~~ pay the assessment, court costs, and reasonable attorney fees based on the amount of time the attorney general's office spent preparing and bringing the action, and reasonable expenses incurred by the treasurer of state. ~~Idle balances in the fund shall be invested by the treasurer with earnings credited to the fund. Fees paid by banks for administration of this chapter shall be credited to the fund and the treasurer may deduct actual costs of administration from the fund.~~

e. h. Following collection of the assessments, the state treasurer of state shall distribute funds to the public depositors of the ~~failed closed~~ bank according to their validated claims unless a public depositor requests in writing that the claims of other public depositors be paid prior to payment to the public depositor making the request. If the assets available are less

than the total deposits, the treasurer shall prorate the claims. A public depositor ~~By receiving payment under this section, a public depositor shall assign~~ be deemed to have assigned to the treasurer of state any ~~interest claim the public depositor may have against the closed bank by reason of the deposit of its public funds and all rights~~ the public depositor may have in funds that subsequently become available to depositors of the ~~defaulting~~ closed bank.

Sec. 10. Section 12C.24, Code 2001, is amended to read as follows:

12C.24 LIABILITY.

When public deposits are made in accordance with this chapter ~~in a financial institution that is eligible to accept public funds deposits at the time a deposit of public funds is made~~, a public body depositing public funds or its agents, employees, officers, and board members are, ~~and any person that is an agent, employee, officer, or board member of the public funds depositor~~, is exempt from liability for any loss resulting from the loss of ~~a depository public funds~~ in the absence of negligence, malfeasance, misfeasance, or nonfeasance on the part of the ~~official public body or such person~~. ~~If the treasurer of state sells a depository's collateral securities, the depository shall deposit additional collateral to meet required collateral levels.~~

~~In making an assessment against depositories holding public funds as a result of a failure, the treasurer of state is exempt from any liability for loss, damage or expense to a depository which has accepted public funds.~~

Sec. 11. Section 12C.25, Code 2001, is amended by adding the following new unnumbered paragraph after subsection 2:

NEW UNNUMBERED PARAGRAPH. Idle balances in the state sinking fund for public deposits in banks shall be invested by the treasurer of state with earnings credited to that fund. Fees paid by banks for administration of this chapter shall be credited to the state sinking fund for public deposits in banks and the treasurer of state may deduct actual costs of administration from that fund.

Sec. 12. Section 12C.26, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

12C.26 REFUND FROM SINKING FUNDS.

1. If at the end of any calendar year the amount in the sinking fund exceeds three million one hundred thousand dollars, then to the extent the amount in the sinking fund exceeds three million dollars, the treasurer shall, on or before January 31 of the following year, refund to each bank that paid an assessment after the year 1999 to the sinking fund resulting from the closing of a bank, its pro rata share of the unreimbursed portion of the total assessment paid by all banks. If assessments remain unreimbursed by reason of the closing of more than one bank, the reimbursements shall be made to the banks that paid assessments by reason of the bank which closed first until those banks are reimbursed in full, and then to the banks that paid assessments by reason of the bank which closed next. Such a refund shall not be made to a bank if the refund would exceed the amount of previous assessments paid by the bank.

2. Upon recovery of a loss of public funds due to a closed credit union, the treasurer of state may refund all or a portion of the recovered amount to the credit unions that paid an assessment under this chapter as a result of the closing of that credit union.

Sec. 13. NEW SECTION. 12C.27 FAILURE TO MAINTAIN REQUIRED COLLATERAL.

If a bank fails to maintain the amount of collateral subject to a perfected security interest held by the treasurer of state required to comply with section 12C.22, subsections 2 and 3, the treasurer of state shall notify the bank of the amount of additional collateral required. If the bank fails to provide the additional required collateral within ten days following the date the notice is given, the treasurer shall notify the office of thrift supervision, the office of the comptroller of the currency, or the superintendent as applicable, who may take such action against the bank, its board of directors and officers as permitted by law.

Sec. 14. NEW SECTION. 12C.28 ELECTRONIC REPORTING.

Any notice, information, report, or other communication required by this chapter shall be deemed effective and in compliance with this chapter if sent or given electronically as provided in rules adopted pursuant to chapter 17A by the superintendent or the treasurer of state.

Sec. 15. Section 524.213, Code 2001, is amended to read as follows:

524.213 DUTIES AND POWERS OF SUPERINTENDENT.

The superintendent shall have general control, supervision and regulation of all state banks and shall be charged with the administration and execution of the laws of this state relating to banks and banking and with such other duties and responsibilities as are imposed upon the superintendent by the laws of this state. The superintendent shall have power to adopt and promulgate such rules and regulations as ~~in the superintendent's opinion will be necessary to properly and effectively carry out and enforce, properly and effectively,~~ the provisions of this chapter and chapter 12C applicable to banks.

Sec. 16. Section 524.223, Code 2001, is amended to read as follows:

524.223 POWER OF SUPERINTENDENT TO ISSUE ORDERS.

1. Whenever it shall appear to the superintendent that a state bank is engaging or has engaged, or the superintendent has reasonable cause to believe that the state bank is about to engage, in an unsafe or unsound practice in conducting the business of such state bank, or is violating or has violated, or the superintendent has reasonable cause to believe that the state bank is about to violate, any provision of this chapter or of any regulation adopted pursuant to this chapter, or any condition imposed in writing by the superintendent in connection with the approval of any matter required by this chapter, or any written agreement entered into with the superintendent, or any provision of chapter 12C or any rules adopted pursuant to chapter 12C, the superintendent may issue and serve upon the state bank a notice containing a statement of the facts constituting the alleged violation or violations, or the unsafe or unsound practice or practices, and fixing a time and place at which a hearing will be held to determine whether an order to cease and desist ~~therefrom~~ should be issued to the state bank.

2. If the state bank fails to appear at the hearing it shall be deemed to have consented to the issuance of a cease and desist order. In the event of such consent, or if upon the record made at such hearing, the superintendent shall find that any violation or unsafe or unsound practice specified in the notice has been established, the superintendent may issue and serve upon the bank an order to cease and desist from any such violation or practice. Such order may require the state bank and its directors, officers and employees to cease and desist from any such violation or practice and, further, to take affirmative action to correct the conditions resulting from any such violation or practice. In addition, if the violation or practice involves a failure to comply with chapter 12C or any rules adopted pursuant to chapter 12C, the superintendent may recommend to the committee established under section 12C.6 that the bank be removed from the list of financial institutions eligible to accept public funds under section 12C.6A and may require that during the current calendar quarter and up to the next succeeding eight calendar quarters that the bank do any one or more of the following:

- a. Not accept public funds deposits.
- b. Return to the depositors some or all uninsured public funds held in demand deposits and, when deposit instruments or agreements mature, return to the depositors some or all deposits representing proceeds of such instruments or agreements.
- c. Pledge collateral to the treasurer of state having a value at all times up to one hundred ten percent of the public funds held by the bank.
- d. Comply with such other requirements as the superintendent may impose.

3. Any order issued pursuant to this section shall become effective upon service ~~thereof of the order~~ on the state bank and shall remain effective except to such extent that it is stayed, modified, terminated, or set aside by action of the superintendent or of the district court of the county in which the state bank has its principal place of business.

4. The superintendent may apply to the district court of the county in which the state bank

has its principal place of business for the enforcement of any order pursuant to this section and such court shall have jurisdiction and power to order and require compliance therewith.

Sec. 17. EFFECTIVE DATE AND APPLICABILITY. This Act takes effect on July 1, 2002, with the following exceptions:

1. Certification to the superintendent under section 12C.20, subsection 1, shall not be required until January 31, 2003.
2. Notification by the superintendent to the treasurer of state under section 12C.20, subsection 4, shall not be required until April 30, 2003.
3. The pledging of collateral to the treasurer of state pursuant to section 12C.22 shall not be required until July 1, 2003.

Approved April 9, 2002

CHAPTER 1097

ELECTRIC TRANSMISSION LINES — EXTENSIONS OF FRANCHISES

H.F. 2341

AN ACT relating to electric transmission lines.

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

Section 1. Section 478.13, Code 2001, is amended to read as follows:

478.13 EXTENSION OF FRANCHISE — PUBLIC NOTICE.

1. Any person, firm, or corporation owning a franchise granted under this chapter or previously existing law, ~~desiring to acquire extensions of such franchise,~~ may petition the utilities board ~~in the manner provided for the granting of a franchise and the proceeding shall be conducted in the same manner as an original application, including the assessing of costs provided by section 478.4 for an extension of the franchise. The board shall adopt rules governing extension applications and proceedings with the intent that the extension applications and proceedings are less extensive than original applications and proceedings. Assessment of costs shall be as provided in section 478.4.~~

2. If the extension of franchise is sought for all lines in a given county or counties, the published notice need not contain a general description of the lands and highways traversed by the lines, but in lieu of containing such description the petitioner may offer to provide to any interested party, free of charge and within ten working days, a current, accurate map showing the location of the lines for which the franchise extension is sought. The public notice shall advise the citizens of the county or counties affected of the availability of such map. If this alternate procedure is not followed the publication of the description of the lands and highways traversed by the lines shall be done in the manner as in an original application for franchise.

3. ~~In any event an~~ An extension under this section shall be granted only for a valid, existing franchise, and the lands, roads, or streams covered by the franchise over, through, or upon which electric transmission lines have in fact been erected or constructed and are in use or operation at the time of the application for the extension of the franchise. ~~Such petition~~

4. ~~The application for the extension of the franchise shall be accompanied by the written consent of the applicant that the provisions of all laws relating to public utilities, franchises, and transmission lines, or to the regulation, supervision, or control thereof which are then in~~

force or which may be thereafter enacted, shall apply to its existing line or lines, franchises, and rights with the same force and effect as if such ~~the~~ franchise had been granted or such, ~~the~~ lines had been constructed, or rights had been obtained under the provisions of this chapter.

~~5.~~ An extension of a franchise is not required for an electric transmission line ~~which that~~ has been permanently retired from operation at thirty-four and one-half kilovolts or more but ~~which that~~ remains in service at a lower voltage. The board shall be notified of changes in operating status.

Sec. 2. Section 478.18, Code 2001, is amended to read as follows:

478.18 SUPERVISION OF CONSTRUCTION — LOCATION.

~~1.~~ The utilities board shall have power of supervision over the construction of said ~~a~~ transmission line and over its future operation and maintenance. Said

~~2.~~ A transmission line shall be constructed near and parallel to roads, to the right of way ~~right-of-way~~ of the railways of the state, or along the division lines of the lands, according to the government survey thereof, wherever the same is practicable and reasonable, and so as not to interfere with the use by the public of the highways or streams of the state, nor unnecessarily interfere with the use of any lands by the occupant thereof.

Sec. 3. Section 478.21, Code 2001, is amended to read as follows:

478.21 NONUSER.

~~1.~~ If the improvement for which a franchise is granted is not constructed in whole or in part within two years from the date the franchise is granted, ~~or within two years after final unappealable disposition of judicial review of a franchise order or of condemnation proceedings,~~ the franchise shall be forfeited and the utilities board which granted the franchise shall revoke the franchise and make a record of the revocation, unless the person holding the franchise petitions the board for an extension of time.

~~2.~~ Upon a showing of sufficient justification for the delay of construction, the board may grant ~~an extension one or more extensions~~ of time for ~~not more than an additional periods up to two years for each extension.~~ ~~An extension of time shall only be allowed for franchises granted on or after July 1, 1994.~~

Approved April 9, 2002

CHAPTER 1098

PROCEDURES AND RECORDS PERTAINING TO DEATHS — MEDICAL EXAMINERS

H.F. 2453

AN ACT relating to the offices of the state and county medical examiners, establishing fees, and making penalties applicable.

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

Section 1. Section 22.7, subsection 41, Code Supplement 2001, is amended by striking the subsection and inserting in lieu thereof the following:

41. Medical examiner records and reports, including preliminary reports, investigative reports, and autopsy reports. However, medical examiner records and reports shall be released

to a law enforcement agency that is investigating the death, upon the request of the law enforcement agency, and autopsy reports shall be released to the decedent's immediate next of kin upon the request of the decedent's immediate next of kin unless disclosure to the decedent's immediate next of kin would jeopardize an investigation or pose a clear and present danger to the public safety or the safety of an individual. Information regarding the cause and manner of death shall not be kept confidential under this subsection unless disclosure would jeopardize an investigation or pose a clear and present danger to the public safety or the safety of an individual.

Sec. 2. Section 144.28, subsection 1, Code 2001, is amended to read as follows:

1. The medical certification shall be completed and signed ~~within twenty-four hours after death~~ by the physician in charge of the patient's care for the illness or condition which resulted in death within seventy-two hours after receipt of the death certificate from the funeral director or individual who initially assumes custody of the body, except when inquiry is required by the county medical examiner. When inquiry is required by the county medical examiner, the medical examiner shall investigate the cause of death and shall complete and sign the medical certification within ~~twenty-four~~ seventy-two hours after ~~taking charge of the case determination of the cause of death~~.

Sec. 3. Section 331.802, subsection 3, paragraph g, Code 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

g. Death of a person who was prediagnosed as a terminal or bedfast case who did not have a physician in attendance within the preceding thirty days; or death of a person who was admitted to and had received services from a hospice program as defined in section 135J.1, if a physician or registered nurse employed by the program was not in attendance within thirty days preceding death.

Sec. 4. Section 331.804, subsection 1, Code 2001, is amended to read as follows:

1. After an investigation has been completed, including an autopsy if one is ~~made performed~~, the body shall be ~~delivered to~~ prepared for transportation. The body shall be transported by a funeral director, if chosen by a relative or friend of the deceased person, for burial or other appropriate disposition. A medical examiner shall not use influence in favor of a particular funeral director. However, if a person other than a funeral director assumes custody of a dead body, the person shall secure a burial-transit permit pursuant to section 144.32. If no one claims a body, it shall be disposed of as provided in chapter 142.

Sec. 5. Section 331.805, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. If the next of kin, guardian, or other person authorized to act on behalf of a deceased person has requested that the body of the deceased person be cremated, a permit for cremation must be obtained from a medical examiner. ~~However, a permit is not required if the deceased person was a member of an established religion whose tenets are opposed to the inspection or examination of the body of a deceased person.~~ Cremation permits by the medical examiner must be made on the most current forms prepared at the direction of and approved by the state medical examiner, with copies forwarded to the state medical examiner's office. Costs for the cremation permit issued by a medical examiner shall not exceed ~~thirty-five~~ seventy-five dollars. The costs shall be borne by the family, next of kin, guardian of the decedent, or other person.

Sec. 6. Section 691.5, Code Supplement 2001, is amended to read as follows:⁴

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

⁴ See chapter 1175, §101; the proposed amendment to this section contained in the original draft of House File 2453 was stricken by amendment H-8115

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.

Approved April 9, 2002

CHAPTER 1099

SEXUAL ABUSE — ISSUANCE OF NO-CONTACT ORDER UPON DEFENDANT'S ARREST

H.F. 2495

AN ACT providing for the issuance of no-contact orders against persons who are arrested for the crime of sexual abuse.

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

Section 1. NEW SECTION. 709.19 SEXUAL ABUSE — NO-CONTACT.

1. When a person arrested for sexual abuse in violation of section 709.2, 709.3, or 709.4 is brought before a magistrate for initial appearance under section 804.21, 804.22, or 804.24, and the magistrate finds probable cause to believe that a violation of section 709.2, 709.3, or 709.4 has occurred and that the presence of or contact with the defendant poses a threat to the safety of the alleged victim, persons residing with the alleged victim, or members of the alleged victim's immediate family, the magistrate shall enter an order which shall require the defendant to have no contact with the alleged victim, persons residing with the alleged victim, or members of the alleged victim's immediate family, and to refrain from harassing the alleged victim, persons residing with the alleged victim, or members of the alleged victim's immediate family, in addition to any other conditions of release determined and imposed by the magistrate under section 811.2. A no-contact order requiring the defendant to have no contact with the alleged victim's children shall prevail over any existing order which may be in conflict with the no-contact order.

The court order shall contain the court's directives restricting the defendant from having contact with the victim, persons residing with the victim, or the victim's immediate family. The order shall state whether a person is to be taken into custody by a peace officer for a violation of the terms stated in the order.

2. The clerk of the district court or other person designated by the court shall provide a copy of this order to the victim pursuant to this chapter. The order has force and effect until it is

modified or terminated by subsequent court action in a contempt proceeding or the criminal or juvenile court action and is reviewable in the manner prescribed in section 811.2. Upon final disposition of the criminal or juvenile court action, the court shall make a determination whether the no-contact order should be modified or terminated. If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of section 709.2, 709.3, or 709.4, the court shall modify the no-contact order issued by the magistrate to provide that the no-contact order shall continue in effect for a period of five years from the date that the judgment is entered or the deferred judgment is granted, regardless of whether the defendant is placed on probation. Upon the filing of an affidavit by the victim which states that the defendant continues to pose a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family within ninety days prior to the expiration of the modified no-contact order, the court shall modify and extend the no-contact order for an additional period of five years, unless the court finds that the defendant no longer poses a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family. The number of modifications extending the no-contact order permitted by this subsection is not limited.

The clerk of the district court shall also provide notice and copies of the no-contact order to the applicable law enforcement agencies and the twenty-four-hour dispatcher for the law enforcement agencies, in the same manner as provided for protective orders under section 236.5. The clerk shall provide notice and copies of modifications or vacations of these orders in the same manner.

Approved April 9, 2002

CHAPTER 1100

MOVEMENT OF DAIRY CATTLE FROM LIVESTOCK MARKETS

H.F. 2510

AN ACT relating to the movement of dairy cattle from livestock markets, and making penalties applicable.

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

Section 1. Section 172E.2, subsection 1, Code Supplement 2001, is amended to read as follows:

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.

Approved April 9, 2002

CHAPTER 1101**ERADICATION OF ANIMALS WITH CONTAGIOUS DISEASES —
OWNER INDEMNIFICATION***H.F. 2514*

AN ACT relating to the indemnification of owners of animals with a contagious disease under a plan of eradication.

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

Section 1. Section 163.15, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Any If an animal killed infected with a contagious disease is destroyed under such a program of eradication as provided in this section, the owner shall be compensated according to one of the following methods:

1. a. A determination of an indemnity amount as agreed to by appraisal. The determination shall be made by appraisers who shall be appraised by three competent and disinterested persons, including one to be who is appointed by the state department of agriculture and land stewardship, one who is appointed by the owner, and the third one who is appointed by agreement of the other two, and it department and the owner. The appraisers shall be their duty to appraise and report their appraisal under oath to the department of agriculture and land stewardship, and they. The appraisers shall receive such compensation and expenses as shall be provided for in by the program.

b. Any A claim for an indemnity filed by the owner of such animal or animals so appraised shall not exceed the amount agreed upon by the majority decision of the appraisers. For an animal other than registered purebred stock the indemnity amount shall be based on current market prices except in the case of. For registered purebred stock, then the indemnity amount payable for indemnity may exceed market prices by not more than fifty percent. The indemnity amount shall be less any indemnity which amount of indemnification that the owner might be allowed for from the United States department of agriculture. No An indemnity shall not be allowed for infected animals an animal if it is determined by the department of agriculture and land stewardship determines that such animals have the animal has been fed raw garbage as provided in section 163.26. Claims

c. A claim for an indemnity and those filed by the appraisers owner and a claim for compensation and expenses by the appraisers shall be filed with the secretary of agriculture department and submitted by the secretary of agriculture to the executive council for its approval or disapproval.

d. There Upon approval by the executive council, there is appropriated to the department from any funds moneys in the state treasury general fund of the state not otherwise appropriated moneys sufficient funds to carry out the provisions of this section subsection.

2. A formula established by rule adopted by the department that is effective as determined by the department in accordance with chapter 17A and applicable upon approval of the plan of eradication approved by the executive council. The formula shall be applicable to indemnify owners if the executive council, upon recommendation by the secretary of agriculture, determines that an animal population in this state is threatened with infection from an exceptionally contagious disease.

a. An owner shall be paid an indemnity amount based on the formula, only if the owner elects to be paid under the formula in lieu of the determination by appointed appraisers as otherwise provided in this section.

b. The formula shall provide for the payment of the fair market value of an animal based on market prices paid for similar animals according to categories or criteria established by the department, which may include payment based on the species, breed, type, weight, sex, age, purebred status, and condition of the animal. The department may provide for deductions

based on other compensation received by the owner for the destruction of the animals. The department may exclude a claim, if the person would be ineligible to receive compensation by three appointed appraisers as provided in this section.

If an owner elects to be paid an indemnity amount based on a method that provides either a determination by appointed appraisers or pursuant to a formula, the owner shall not be entitled to revoke the election, unless otherwise provided by the department. An owner's decision to delay or refuse to make an election under this section shall not affect the condemnation and destruction of infected animals under the program of eradication.

Approved April 9, 2002

CHAPTER 1102

CHILD FOSTER CARE AND ADOPTION

H.F. 2518

AN ACT relating to child foster care and adoption requirements involving licensing periods, foster parent training, and annual reports.

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

Section 1. Section 237.3, subsection 2, paragraph f, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

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~~ all of the following:

Sec. 2. Section 237.3, subsection 2, paragraph f, Code Supplement 2001, is amended by adding the following new subparagraph as subparagraph (1) and renumbering the existing subparagraphs:

NEW SUBPARAGRAPH. (1) Provision by the department to the foster care provider at or before the time of a child's placement of the child's health records and any other information possessed or known about the health of the child or about a member of the child's family that pertains to the child's health.

Sec. 3. Section 237.5, subsection 1, Code 2001, is amended to read as follows:

1. An individual or an agency shall apply for a license by completing an application to the administrator upon forms furnished by the administrator. The administrator shall issue or re-issue a license if the administrator determines that the applicant or licensee is or upon commencing operation will provide child foster care in compliance with this chapter. A license for an individual is valid for one year from the date of issuance. A license for an agency is valid for up to three years from the date of issuance for the period determined by the administrator in accordance with administrative rules providing criteria for making the determination. The license shall state on its face the name of the licensee, the type of facility, the particular premises for which the license is issued, and the number of children who may be cared for by the facility on the premises at one time. The license shall be posted in a conspicuous place in the physical plant of the facility, except that if the facility is in a single-family home the license may be kept where it is readily available for examination upon request.

Sec. 4. Section 237.5A, Code 2001, is amended to read as follows:

237.5A FOSTER PARENT TRAINING.

As a condition for initial licensure, each individual licensee shall complete ~~twelve~~ thirty hours of foster parent training offered or approved by the department. Prior to annual renewal of licensure, each individual licensee shall also complete six hours of foster parent training. The training shall include but is not limited to physical care, education, learning disabilities, referral to and receipt of necessary professional services, behavioral assessment and modification, self-assessment, self-living skills, and biological parent contact. An individual licensee may complete the training as part of an approved training program offered by a public or private agency with expertise in the provision of child foster care or in related subject areas. The department shall adopt rules to implement and enforce this training requirement.

Sec. 5. Section 238.3, Code 2001, is amended to read as follows:

238.3 POWER AUTHORITY TO LICENSE.

The administrator is ~~hereby empowered to~~ may grant a license under this chapter for one year ~~the period specified in section 238.9~~ for the conduct of any child-placing agency ~~that is for the public good, and is conducted by a reputable and responsible person in this state.~~

Sec. 6. Section 238.9, Code 2001, is amended to read as follows:

238.9 TENURE TERM OF LICENSE.

Licenses ~~A~~ license granted under this chapter shall be valid for ~~one year~~ three years from the date of issuance thereof unless the license is ~~revoked in accordance with the provisions hereof~~ section 238.10.

Sec. 7. Section 238.24, Code 2001, is amended to read as follows:

238.24 INFORMATION CONFIDENTIAL.

1. No individual ~~Except as authorized by this section, a person~~ who acquires through the operation of the provisions of sections 238.17 to 238.23, inclusive, under this chapter or from the records provided for in this chapter, information relative to any agency or relative to any person individual cared for by ~~such~~ the agency or relative to any relative of ~~any such person~~ the individual, shall ~~not~~ directly or indirectly disclose ~~such~~ the information ~~except.~~

2. Disclosure of information acquired under this chapter or from the records provided for in this chapter is authorized under any of the following circumstances:

a. upon ~~Disclosure made upon~~ inquiry before a court of law, or before some other tribunal, or for the information of the governor, general assembly, medical examiners, administrator, Iowa department of public health, or the local board of health in the jurisdiction where ~~such~~ the agency is located.

b. Nothing herein shall prohibit the ~~Disclosure may be made by the~~ administrator from disclosing such facts to ~~such~~ to proper persons as may be in the interest of a child cared for by ~~such~~ the agency or in the interest of the child's parents or foster parents and not inimical to the child, or as may be necessary to protect the interests of the child's prospective foster parents. However, disclosure of termination and adoption records shall be governed by the provisions of sections 600.16 and 600.16A.

c. Nothing herein shall prohibit the ~~Disclosure for purposes of~~ statistical analysis ~~performed~~ by duly authorized persons of data collected ~~by virtue of~~ under this chapter or the publication of the results of such analysis in such manner as will not disclose confidential information.

Sec. 8. Section 238.23, Code 2001, is repealed.

CHAPTER 1103

HIGHWAY CONSTRUCTION AND REPAIR — TOPSOIL PRESERVATION

S.F. 144

AN ACT requiring contracts for the construction or maintenance of highways to include certain provisions for the restoration of areas in which fill dirt or other materials are to be removed.

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

Section 1. NEW SECTION. 314.12A PRESERVATION OF TOPSOIL IN HIGHWAY CONSTRUCTION.

In the award of contracts for the construction, reconstruction, improvement and repair, except for minor maintenance, of a highway, the state department of transportation shall require that when fill dirt, soil, or other materials are to be removed from an area acquired by title or easement, whether by agreement or condemnation, for use in the project, adequate provision shall be made for the salvage of topsoil from the area for use in the restoration of the specified critical areas of the project by replacement of salvaged topsoil, by fertilizing and mulching if necessary, or by other appropriate measures to provide vegetative cover to prevent erosion, including filling or covering the area with compost, except where a lake or subwater table conditions exist, where deep loess is present, or where outside ditch bottoms and backslopes are present in rock cut areas. This section shall not apply to borrow pits covered by section 314.12.

Approved April 11, 2002

CHAPTER 1104

CHILD CARE AND CHILD CARE PROVIDERS — OBTAINING PUBLIC FUNDING BY FRAUDULENT MEANS

S.F. 466

AN ACT relating to child care and protection public policy provisions involving children by authorizing sanctions for a child care provider who obtains public funding by fraudulent means.

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

Section 1. Section 237A.29, Code 2001, is amended to read as follows:
237A.29 ~~STATE AND FEDERAL PUBLIC FUNDING OF CHILD CARE.~~

1. State funds and federal funds provided to the state in accordance with federal requirements shall not be used to pay for the care, supervision, and guidance of a child for periods of less than twenty-four hours per day on a regular basis unless the care, supervision, and guidance is defined as child care as used in this chapter.

2. a. For the purposes of this subsection, "fraudulent means" means knowingly making or causing to be made a false statement or a misrepresentation of a material fact, knowingly failing to disclose a material fact, or committing a fraudulent practice.

b. A child care provider that has been found in an administrative or judicial proceeding to

have obtained, or has agreed to entry of a civil judgment or judgment by confession that includes a conclusion of law that the child care provider has obtained, by fraudulent means, public funding for provision of child care in an amount equal to or in excess of the minimum amount for a fraudulent practice in the second degree under section 714.10, subsection 1, shall be subject to sanction in accordance with this subsection. Such child care provider shall be subject to a period during which receipt of public funding for provision of child care is conditioned upon no further violations and to one or more of the following sanctions as determined by the department and imposed in an administrative proceeding:

- (1) Ineligibility to receive public funding for provision of child care.
- (2) Suspension from receipt of public funding for provision of child care.
- (3) Special review of the child care provider's claims for providing publicly funded child care.

c. The following factors shall be considered in determining the sanction or sanctions to be imposed under paragraph "b", subparagraphs (1) through (3):

- (1) Seriousness of the violation.
- (2) Extent of the violation.
- (3) History of prior violations.
- (4) Prior imposition of sanctions.
- (5) Prior provision of provider education.
- (6) Provider willingness to obey program rules.
- (7) Whether a lesser sanction will be sufficient to remedy the problem.

d. In determining the value of the public funding obtained by fraudulent means, if the public funding is obtained by two or more acts of fraudulent means by the same person or location, or is obtained by different persons by two or more acts which occur in approximately the same location or time period so that the acts of fraudulent means used to obtain the public funding are attributable to a single scheme, plan, or conspiracy, these acts may be considered as a single instance of the use of fraudulent means and the value may be the total value of all monies involved.

3. a. If a child care provider is subject to sanctions under subsection 2, the provider shall submit to the department the names and addresses of children receiving child care from the provider. The department shall send information to the parents of the children regarding the provider's actions leading to the imposition of the sanctions and the nature of the sanctions imposed. If the provider fails to submit the names and addresses within five business days of the department notifying the provider, the department shall suspend the provider's registration or license under this chapter until the names and addresses are provided.

b. In addition to applying the suspension, the department may request that the attorney general file a petition with the district court of the county in which the provider is located for issuance of a temporary injunction enjoining the provider from providing child care until the names and addresses are submitted to the department. The attorney general may file the petition upon receiving the request from the department. Any temporary injunction may be granted without a bond being required from the department.

c. If the sanctions imposed under subsection 2 involve the provider's suspension or ineligibility for receiving public funding for provision of child care, the department shall not impose those sanctions before the parents of the affected children are informed, and upon request, shall provide assistance to the parents in locating replacement child care.

Approved April 11, 2002

CHAPTER 1105

JUNETEENTH NATIONAL FREEDOM DAY

S.F. 2273

AN ACT relating to the designation of a Juneteenth National Freedom Day.

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

Section 1. **NEW SECTION. 1C.12 JUNETEENTH NATIONAL FREEDOM DAY.**

The governor of this state is hereby authorized and requested to issue annually a proclamation designating the third Saturday in June as Juneteenth National Freedom Day and to encourage all governmental entities, civic organizations, schools, and institutions of higher education in the state to observe the day in a manner that emphasizes the meaning and importance of the emancipation proclamation that ended slavery in the United States and to recognize and celebrate the importance of this day to every person who cherishes liberty and equality for all people.

Approved April 11, 2002

CHAPTER 1106PROPOSED UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT —
EFFECT — INTENT

H.F. 2446

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, as amended by 2001 Iowa Acts, chapter 34, section 1, is amended to read as follows:

2. This section of this Act takes effect July 1, ~~2002~~ 2003.

Sec. 2. 2000 Iowa Acts, chapter 1189, section 33, as amended by 2001 Iowa Acts, chapter 34, section 2, 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 ~~2002~~ 2003 regular session.

Approved April 11, 2002

CHAPTER 1107

IOWA TRUST CODE REVISIONS

H.F. 2531

AN ACT making certain amendments to the Iowa trust code.

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

Section 1. Section 633.1102, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. “Qualified beneficiary” means a beneficiary who, on the date the beneficiary’s qualification is determined, is any of the following:

- a. Eligible to receive distributions of income or principal from the trust.
- b. Would receive property from the trust upon immediate termination of the trust.

Sec. 2. Section 633.2102, Code 2001, is amended to read as follows:
633.2102 REQUIREMENTS FOR VALIDITY.

1. A trust is created only if all of the following elements are satisfied:

- a. The settlor was competent and indicated an intention to create a trust.
- b. The same person is not the sole trustee and sole beneficiary.
- c. ~~Unless the trust is a charitable trust, an honorary trust, or a trust for the care of an animal, the trust has a definite beneficiary or a beneficiary who will be definitely ascertained within the period of the applicable rule against perpetuities. The trust has a definite beneficiary or a beneficiary who will be definitely ascertained within the period of the applicable rule against perpetuities, unless the trust is a charitable trust, an honorary trust, or a trust for pets.~~

2. A definite or definitely ascertainable beneficiary includes a beneficiary or class of beneficiaries designated under a power to select the beneficiaries granted by the terms of the trust to the trustee or another person. ~~If the power is not exercised within a reasonable time, the power fails and the property passes to the person or persons who would have taken the property had the power not been conferred.~~

Sec. 3. Section 633.2201, subsection 3, Code 2001, is amended by striking the subsection.

Sec. 4. Section 633.2205, subsection 2, Code 2001, is amended to read as follows:

2. Upon termination of a trust under this section, the trustee shall distribute the trust property in accordance with the probable intention of the settlor under the circumstances. Extrinsic evidence is admissible for the purpose of ascertaining the probable intention of the settlor.

Sec. 5. Section 633.2206, subsection 1, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

1. The court may reform the terms of the trust, even if unambiguous, to conform to the settlor’s intent if it is proved by clear and convincing evidence that the settlor’s intent and the terms of the trust were affected by a mistake of fact or law whether expressed or induced.

Sec. 6. Section 633.4105, subsection 2, paragraph b, subparagraphs (1) and (2), Code 2001, are amended to read as follows:

(1) By majority vote of all ~~adult~~ qualified beneficiaries, ~~who are adults~~, and the representative of any minor or incompetent qualified beneficiary, as defined by section 633.6303.

(2) By a person appointed by the court on petition of an interested person or of a person named as trustee by the terms of the trust. The court, in selecting a trustee, shall consider any nomination made by the adult beneficiaries and representatives of any minor and incompetent beneficiaries.

Sec. 7. Section 633.4105, subsection 3, Code 2001, is amended by striking the subsection.

Sec. 8. Section 633.4106, subsection 1, paragraph c, Code 2001, is amended to read as follows:

c. With the consent of the adult qualified beneficiaries ~~as defined in section 633.4105, subsection 1, who are adults~~ if the trust is irrevocable or the holder of the power to revoke lacks competency or is not represented by a guardian, conservator, or agent.

Sec. 9. Section 633.4111, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. Each qualified beneficiary ~~who is entitled to an accounting under section 633.4213, subsection 6.~~

Sec. 10. Section 633.4202, subsections 2, 3, and 5, Code 2001, are amended to read as follows:

2. Any transaction involving the trust which is affected by a substantial material conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless one of the following applies:

a. The transaction was expressly authorized by the terms of the trust.
b. The beneficiary consented to or affirmed the transaction or released the trustee from liability as provided in section 633.4506.

c. The transaction is approved by the court after notice to interested persons.
3. A transaction affected by a substantial material conflict between personal and fiduciary interests includes any sale, encumbrance, or other transaction involving the trust property entered into by the trustee, the spouse, descendant, agent, or attorney of a trustee, or corporation or other enterprise in which the trustee has a substantial beneficial interest.

5. This section does not apply to any of the following:
a. An agreement between a trustee and a beneficiary relating to the appointment of the trustee.
b. The payment of compensation to the trustee, whether by agreement, the terms of the trust, or this trust code.

c. A transaction between a trust and another trust, decedent's or conservatorship estate of which the trustee is a fiduciary if the transaction is fair to the beneficiaries of the trust.

d. An investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee if the investment complies with the prudent investor rule. The trustee may be compensated by the investment company or investment trust for providing services from fees charged to the trust if the trustee provides annual notice and a copy of the trustee's annual report, including the rate and method by which the trustee's compensation was determined, to the persons specified in section 633.4213.

e. A deposit of trust money in a regulated financial service institution operated by the trustee.

Sec. 11. Section 633.4211, Code 2001, is amended to read as follows:

633.4211 ENFORCEMENT AND DEFENSE OF CLAIMS AND ACTIONS.

A trustee shall take reasonable steps to enforce claims ~~that are part of the trust property of the trust, to defend claims against the trust,~~ and to defend against actions that may result in a loss to the trust.

Sec. 12. Section 633.4213, Code Supplement 2001, is amended by striking the section and inserting in lieu thereof the following:

633.4213 DUTY TO INFORM AND ACCOUNT.

A trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and the material facts necessary to protect the beneficiaries' interests.

1. The trustee shall inform each qualified beneficiary of their¹ right to receive an annual

¹ See chapter 1175, §93 herein

accounting and a copy of the trust instrument. The trustee shall also inform each qualified beneficiary about the process necessary to obtain an annual accounting or a copy of the trust instrument, if not provided. The trustee shall further inform the beneficiary whether the beneficiary will, or will not, receive an annual accounting if the beneficiary fails to take any action. If a beneficiary has previously been provided the notice required by this section, additional notice shall not be required due to a change of trustees or a change in the composition of the qualified beneficiaries.

2. The trustee shall provide the notice required in subsection 1 to each qualified beneficiary within a reasonable time following any of the following events:

- a. The commencement of the trust administration.
- b. The trustee becoming aware that there is a new qualified beneficiary or a representative of any minor or incompetent beneficiary.
- c. The trust becoming irrevocable.
- d. The time that no person, except the trustee, has the right to change the beneficiaries of the trust.

3. A trustee of an irrevocable trust shall provide annually to each adult beneficiary and the representative of any minor or incompetent beneficiary who may receive a distribution of income or principal during the accounting time period, an accounting, unless an accounting has been waived specifically for a particular accounting time period.

4. This section does not apply to any trust where the grantor has retained the right, or has transferred the right, to change the beneficiaries of the trust.

5. The only consequence to a trustee's failure to provide a required accounting or notice is that the trustee shall not be able to rely upon the statute of limitations under section 633.4504. If the trustee has refused, after a reasonable request, to provide an accounting to a qualified beneficiary, the court may assess costs, including attorney fees, against the trustee personally.

6. The format and content of an accounting required by this section shall be within the discretion of the trustee, if sufficient to reasonably inform the beneficiary of the condition and activities of the trust during the accounting period.

7. This section applies to any trust created on or after July 1, 2002, unless the trustor has specifically waived the requirements of this section in the trust instrument. Waiver of this section shall not bar any beneficiary's common-law right to an accounting, and shall not provide any immunity to a trustee, acting under the terms of the trust, for liability to any beneficiary who discovers facts giving rise to a cause of action against the trustee.

Sec. 13. Section 633.4214, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Subject to paragraph "c" and unless the terms of the trust expressly indicate that a rule in this subsection does not apply, all of the following shall apply:

a. A person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee the power to make discretionary distributions to or for the trustee's personal benefit may exercise the power only in accordance with an ascertainable standard relating to the trustee's individual health, education, support, or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986.

b. A trustee shall not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes to another person.

c. This subsection does not apply to the following:

(1) A power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in section 2056(b)(5) or 2523(e) of the Internal Revenue Code of 1986, that was previously allowed.

(2) A trust that may be revoked or amended by the settlor.

(3) A trust, if contributions to the trust which qualify for an annual exclusion under section 2503(c) of the Internal Revenue Code of 1986.

NEW SUBSECTION. 4. A power whose exercise is limited or prohibited by subsection 3 may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.

Sec. 14. Section 633.4402, subsections 3, 6, 16, 25, and 27, Code 2001, are amended to read as follows:

3. Continue or participate in the operation of a business or other enterprise that is part of the trust property and affect an incorporation, dissolution, or other change in the form of the organization of the business or enterprise. With respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue or participate in the operation of a business or other enterprise that is part of the trust and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of a business organization and contributing additional capital.

6. Manage, control, divide, develop, improve, exchange, partition, change the character of, or abandon trust property. Consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise, and participate in voting trusts, pooling arrangements, and foreclosures, and in connection therewith, deposit securities with and transfer title and delegate discretion to any protective or other committee as the trustee considers advisable.

16. Consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise, and participate in voting trusts, pooling arrangements, and foreclosures, and in connection therewith, deposit securities with and transfer title and delegate discretion to any protective or other committee as the trustee considers advisable. Select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, and exercise rights thereunder, including the right to indemnification for expenses and against liabilities, and take appropriate action to collect proceeds.

25. Make a distribution of property and money in divided or undivided interests, pro rata or non-pro rata, and adjust resulting differences in valuation. Upon distribution of trust property or the division or termination of a trust, make distribution in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation.

27. Expend trust funds to inspect or investigate property that the trustee has been asked to hold, or property owned or operated by an entity in which the trustee holds or has been asked to hold an interest for the purpose of determining the application of environmental law with respect to the property, and take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee. With respect to any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, a trustee shall do all of the following:

a. Inspect or investigate property the trustee holds or has been asked to hold or property owned or operated by an organization in which the trustee holds an interest in or has been asked to hold an interest in, and expend trust funds therefore, for the purpose of determining any potential environmental law violations with respect to the property.

b. Take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement.

c. Decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of any environmental law.

d. Negotiate claims against the trust which may be asserted for an alleged violation of environmental law.

e. Pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law.

Sec. 15. Section 633.4402, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 31. Resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution.

NEW SUBSECTION. 32. Upon termination of the trust, exercise the powers necessary to conclude the administration of the trust and distribute the trust property to the person or persons entitled to the trust property.

Sec. 16. Section 633.4502, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 8. Order any other appropriate relief.

Sec. 17. Section 633.4506, subsection 2, Code 2001, is amended to read as follows:

2. ~~Notwithstanding the provisions of subsection 1, a~~ A beneficiary may hold a trustee liable for breach of trust ~~under either of the following circumstances despite a consent, release, or affirmation by the beneficiary, if, at the time of the consent, release, or affirmation, all of the following applied:~~

a. ~~The beneficiary at the time of the consent, release, or affirmation did not know of the beneficiary's rights and of the material facts the trustee knew or should have known and the trustee did not reasonably believe that the beneficiary knew~~ did not know of the beneficiary's rights.

b. ~~The consent, release, or affirmation of the beneficiary was induced by improper conduct of the trustee~~ beneficiary did not know the material facts known to the trustee or which the trustee should have known.

c. ~~The trustee did not reasonably believe that the beneficiary knew the beneficiary's rights or that the beneficiary knew material facts known to the trustee or which the trustee should have known.~~

Sec. 18. Section 633.4506, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 3. A beneficiary may hold a trustee liable for breach of a trust, despite a consent, release, or affirmation by the beneficiary, if the consent, release, or affirmation was induced by improper conduct of the trustee.

Sec. 19. Section 633.4601, subsection 2, Code 2001, is amended to read as follows:

2. A trustee is personally liable for obligations arising from ownership or control of trust property ~~or, including liability for environmental law violations, and~~ for torts committed in the course of administering a trust only if the trustee is personally at fault.

Sec. 20. Section 633.6101, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

633.6101 SUBJECT MATTER JURISDICTION.

The district court has exclusive jurisdiction of proceedings concerning the internal affairs of a trust and of actions and proceedings to determine the existence of a trust, actions and proceedings by or against creditors or debtors of a trust, and other actions and proceedings involving a trust and third persons.

Sec. 21. Section 633.6105, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

633.6105 TRANSFER OF JURISDICTION.

1. The court may transfer the place of administration of a trust to or from this state or transfer some or all of the trust property to a trustee in or outside this state if it finds that the transfer of the trust property to a trustee in this or another jurisdiction, or the transfer of the place of administration of a trust to this or another jurisdiction, will promote the best interests of the trust and those interested in it, taking into account the economical and convenient administration of the trust and the views of the qualified beneficiaries.

2. A new trustee to whom the trust property is to be transferred shall be qualified, willing, and able to administer the trust or trust property under the terms of the trust.

3. If the trust or any portion of the trust property is transferred to another jurisdiction and if approval of the transfer by the other court is required under the law of the other jurisdiction, the proper court in the other jurisdiction must have approved the transfer in order for the transfer to be effective.

4. If a transfer is ordered, the court may direct the manner of transfer and impose terms and conditions as may be just, including a requirement for the substitution of a successor trustee in any pending litigation in this state. A delivery of property in accordance with the order of the court is a full discharge of the trustee with respect to all property specified in the order.

5. If the court grants a petition to transfer a trust or trust property to this state, the court shall require the trustee to give a bond, if necessary under the law of the other jurisdiction or of this state, and may require bond as provided in section 633.4102.

Sec. 22. Section 633.6301, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Notice to a person who may represent and bind another person under this chapter has the same effect as if notice were given directly to the person represented.

NEW SUBSECTION. 5. The consent of a person who may represent and bind another person under this chapter is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

Sec. 23. NEW SECTION. 633.7101 DIVISION PREVAILS.

Notwithstanding any Code provision to the contrary, the provisions of this Division XX shall prevail over any other applicable Code provision.

Approved April 11, 2002

CHAPTER 1108

PUBLIC HEALTH REGULATION — MISCELLANEOUS PROVISIONS

H.F. 2547

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 124.210, subsection 3, Code 2001, is amended by adding the following new paragraph o and relettering the subsequent paragraphs:

NEW PARAGRAPH. o. Dichloralphenazone.

Sec. 2. Section 124B.2, subsection 1, paragraph o, Code 2001, is amended to read as follows:

o. ~~Insosafrole~~ Isosafrole.

Sec. 3. Section 124B.2, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. w. Gamma-Butyrolactone (also known as GBL; Dihydro-2(3H)-furanone; 1,2-Butanolide; 1,4-Butanolide; 4-Hydroxybutanoic acid lactone; or gamma-hydroxy-butyric acid lactone).

Sec. 4. Section 125.13, subsection 1, unnumbered paragraph 2, Code 2001, is amended to read as follows:

~~Three~~ Four types of licenses may be issued by the department. A renewable license may be issued for one, ~~or two, or three~~ years. ~~Treatment programs~~ A treatment program applying for ~~their~~ its initial license may be issued a license for two hundred seventy days. A license issued for two hundred seventy days shall not be renewed or extended.

Sec. 5. Section 125.13, subsection 2, Code 2001, is amended by adding the following new paragraph:

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

Sec. 6. Section 125.14, Code 2001, is amended to read as follows:

125.14 LICENSES — RENEWAL — FEES.

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

Sec. 7. Section 135.11, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. Establish, publish, and enforce rules which require companies, corporations, and other entities to obtain a permit from the department prior to scattering cremated human remains.

Sec. 8. Section 135.24, Code Supplement 2001, is amended to read as follows:

135.24 VOLUNTEER HEALTH CARE PROVIDER PROGRAM ESTABLISHED — IMMUNITY FROM CIVIL LIABILITY.

1. The director shall establish within the department a program to provide to eligible hospitals, clinics, or other health care facilities, health care referral programs, or charitable organizations, free medical, ~~and dental, and chiropractic~~ services given on a voluntary basis by health care providers. A participating health care provider shall register with the department and obtain from the department a list of eligible, participating hospitals, clinics, or other health care facilities, health care referral programs, or charitable organizations.

2. The department, in consultation with the department of human services, shall adopt rules to implement the volunteer health care provider program which shall include the following:

a. Procedures for registration of health care providers deemed qualified by the board of medical examiners, the board of physician assistant examiners, the board of dental examiners, ~~and the board of nursing, and the board of chiropractic examiners.~~

b. Criteria for and identification of hospitals, clinics, or other health care facilities, health care referral programs, or charitable organizations, eligible to participate in the provision of free medical, ~~or dental, or chiropractic~~ services through the volunteer health care provider program. A health care facility, a health care referral program, a charitable organization, or a health care provider participating in the program shall not bill or charge a patient for any health care provider service provided under the volunteer health care provider program.

c. Identification of the ~~medical~~ services to be provided under the program. ~~The medical ser-~~

vices provided 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, or services provided under chapter 151.

3. A health care provider providing free care under this section shall be considered an employee of the state under chapter 669 and shall be afforded protection as an employee of the state under section 669.21, provided that the health care provider has done all of the following:

a. Registered with the department pursuant to subsection 1.
b. Provided medical, or dental, or chiropractic services through a hospital, clinic, or other health care facility, health care referral program, or charitable organization listed as eligible and participating by the department pursuant to subsection 1.

4. For the purposes of this section, "charitable organization" means a charitable organization within the meaning of section 501(c)(3) of the Internal Revenue Code which has as its primary purpose the sponsorship or support of programs designed to improve the quality, awareness, and availability of chiropractic, dental, or medical or dental services to children and to serve as a funding mechanism for provision of chiropractic, dental, or medical or dental services, including but not limited to immunizations, to children in this state.

5. For the purposes of this section, "health care provider" means a physician licensed under chapter 148, 150, or 150A, or 151, a physician assistant licensed and practicing under a supervising physician pursuant to chapter 148C, a licensed practical nurse, a registered nurse, or a dentist, dental hygienist, or dental assistant registered or licensed to practice under chapter 153.

Sec. 9. Section 135.104, subsection 3, Code 2001, is amended to read as follows:

3. A screening program for children, with emphasis on children less than ~~five~~ six years of age.

Sec. 10. Section 136C.4, subsection 1, Code 2001, is amended to read as follows:

1. It is unlawful to operate or use radiation machines or radioactive material in violation of this chapter or of any rule adopted pursuant to this chapter. Persons convicted of violating a provision of this chapter are guilty of a ~~simple~~ serious misdemeanor.

Sec. 11. Section 144.26, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. a. The department shall establish by rule procedures for making a finding of presumption of death when no body can be found. The department shall also provide by rule the responsibility for completing and signing the medical certification of cause of death in such circumstances. The presumptive death certificate shall be in a form prescribed by the state registrar and filed in the county where the death was presumed to occur.

b. The division shall provide for the correction, substitution, or removal of a presumptive death certificate when the body of the person is later found, additional facts are discovered, or the person is discovered to be alive.

Sec. 12. Section 147.10, Code 2001, is amended to read as follows:

147.10 RENEWAL.

Every license to practice a profession shall expire in multiyear intervals and be renewed as determined by the board upon application by the licensee, without examination. Application for renewal shall be made in writing to the department accompanied by the required fee at least thirty days prior to the expiration of such license. Every renewal shall be displayed in connection with the original license. The department shall notify each licensee ~~by mail~~ prior to the expiration of a license. Failure to renew the license within a reasonable time after the expiration shall not invalidate the license, but a reasonable penalty may be assessed by the board.

Sec. 13. Section 147.107, subsection 2, unnumbered paragraphs 1 and 2, Code Supplement 2001, are amended to read as follows:

A pharmacist, physician, dentist, or podiatric physician who dispenses prescription drugs,

including but not limited to controlled substances, for human use, may delegate nonjudgmental dispensing functions to staff assistants only when verification of the accuracy and completeness of the prescription is determined by the pharmacist or practitioner in the pharmacist's or practitioner's physical presence. However, the physical presence requirement does not apply when a pharmacist or practitioner is utilizing an automated dispensing system. When using an automated dispensing system the pharmacist or practitioner shall utilize an internal quality control assurance plan that ensures accuracy for dispensing. Verification of automated dispensing accuracy and completeness remains the responsibility of the pharmacist or practitioner and shall be determined in accordance with rules adopted by the boards of pharmacy, medicine, dentistry, and podiatry for their respective licensees.

A dentist, physician, or podiatric physician who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall ~~annually~~ register the fact that they dispense prescription drugs with the practitioner's respective examining board at least biennially. ~~A physician doing so shall register biennially.~~

Sec. 14. Section 148B.5, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 15. NEW SECTION. 153.19 TEMPORARY PERMIT — FEES.

1. The board may, in its discretion, issue a temporary permit authorizing the permit holder to practice dentistry or dental hygiene in a specific location or locations and for a specified period of time if, in the opinion of the board, a need exists and the person possesses the qualifications prescribed by the board for the permit, which shall be substantially equivalent to those required for licensure under this chapter. The board shall determine in each instance those eligible for this permit, whether or not examinations shall be given, and the type of examinations. None of the requirements for regular licensure under this chapter are mandatory for a temporary permit except as specifically designated by the board. The issuance of a temporary permit shall not in any way indicate that the permit holder is necessarily eligible for regular licensure, nor is the board in any way obligated to so license the person.

2. A temporary permit shall be issued for a period determined by the board and may be renewed at the discretion of the board. The fee for a temporary permit and the fee for renewal shall be set by the board. The fees shall be based on the administrative costs of issuing and renewing the permits. The board may revoke a temporary permit at any time, without a hearing, for reasons deemed sufficient by the board.

3. If the board revokes a temporary permit, it shall promptly notify the permit holder by registered mail, at the last known address of the permit holder, and the temporary permit shall be revoked and of no further force and effect three days after the giving of the notice to the permit holder.

Sec. 16. Section 153.21, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

153.21 LICENSE BY CREDENTIALS.

The board may issue a license under this chapter without examination to an applicant who furnishes satisfactory proof that the applicant holds a license from a similar dental board under equal or substantially equal requirements to those of this state, and who for three consecutive years immediately prior to the filing of the application in this state has been in a legal practice of dentistry or dental hygiene in such other state, territory, or district of the United States, and who furnishes such other evidence as to the applicant's qualifications and lawful practice as the board may require.

Sec. 17. Section 153.22, Code 2001, is amended to read as follows:

153.22 RESIDENT ~~DENTIST~~ LICENSE.

~~Any A dentist, or dental hygienist who is a graduate of an accredited dental school and is serving only as a resident, intern, or graduate student dentist and who is not licensed to practice dentistry in this state, shall be is~~ required to obtain from the board of dentistry a temporary or special license to practice as a resident, intern, or graduate ~~dentist~~ student. The license shall

be designated "Resident Dentist License" and shall authorize the licensee to serve as a resident, intern, or graduate student only, under the supervision of a licensed practitioner of dentistry, in an institution approved for this purpose by the board. Such license shall be valid for one year and may be renewed at the discretion of the board. The fee for this a resident license and the annual renewal fee shall be set by the board based upon the cost of issuance of the license. The board shall determine in each instance those eligible for this a resident license, whether or not examinations shall be given, and the type of examination. No None of the requirements of the law pertaining to for regular permanent licensure shall be are mandatory for this resident licensure except as specifically designated by the board. The granting issuance of a resident dentist's license does shall not in any way indicate that the person so licensed is necessarily eligible for regular licensure, nor is the board in any way obligated to so license such individual. The board may revoke said a resident license at any time it shall determine either that the caliber of work done by a licensee or the type of supervision being given such licensee does not conform to reasonable standards established by the board.

Sec. 18. Section 153.31, Code 2001, is amended to read as follows:

153.31 FALSIFICATION IN APPLICATION FOR RENEWAL.

A license to practice either dentistry or dental hygiene, or registration as a dental assistant, shall be revoked or suspended in the manner and upon the grounds elsewhere provided in this chapter, and also when the certificate accompanying the application of such licensee or registrant for renewal of license or registration filed with the board is not in all material respects true.

Sec. 19. Section 153.33, subsections 1 and 2, Code 2001, are amended to read as follows:

1. To initiate investigations of and conduct hearings on all matters or complaints relating to the practice of dentistry, or dental hygiene, or dental assisting or pertaining to the enforcement of any provision of this chapter, to provide for mediation of disputes between licensees or registrants and their patients when specifically recommended by the board, to revoke or suspend licenses or registrations, or the renewal thereof, issued under this or any prior chapter, to provide for restitution to patients, and to otherwise discipline licensees and registrants.

Subsequent to an investigation by the board, the board may appoint a disinterested third party to mediate disputes between licensees or registrants and patients. Referral of a matter to mediation shall not preclude the board from taking disciplinary action against the affected licensee or registrant.

2. To appoint investigators, who shall not be members of the examining board, to administer and aid in the enforcement of the provisions of law relating to those persons licensed to practice dentistry and dental hygiene, and persons registered as dental assistants. The amount of compensation for the investigators shall be determined pursuant to chapter 19A. Investigators authorized by the board of dental examiners have the powers and status of peace officers when enforcing this chapter and chapters 147 and 272C.

Sec. 20. Section 153.33, subsection 5, paragraph f, Code 2001, is amended to read as follows:

f. If the licensee or registrant pleads guilty, or after hearing shall be found guilty by the board of any of the charges made, it may suspend for a limited period or revoke the license or registration, and the last renewal thereof, and shall enter the order on its records and notify the accused of the revocation or suspension of the person's license or registration, as the case may be, who shall thereupon forthwith surrender that license or registration to the board. Any such person whose license or registration has been so revoked or suspended shall not thereafter and while such revocation or suspension is in force and effect practice dentistry, or dental hygiene, or dental assisting within this state.

Sec. 21. Section 153.34, Code 2001, is amended to read as follows:

153.34 DISCIPLINE.

The board may issue an order to discipline a licensed dentist or dental hygienist, or regis-

~~tered dental assistant~~, for any of the grounds set forth in this chapter, chapter 272C, or Title IV. Notwithstanding section 272C.3, licensee ~~or registrant~~ discipline may include a civil penalty not to exceed ten thousand dollars. Pursuant to this section, the board may discipline a licensee ~~or registrant~~ for any of the following reasons:

1. For fraud or deceit in procuring the license ~~or registration~~ or the renewal thereof to practice dentistry, ~~or dental hygiene, or dental assisting~~.
2. For being guilty of willful and gross malpractice or willful and gross neglect in the practice of dentistry, ~~or dental hygiene, or dental assisting~~.
3. For fraud in representation as to skill or ability.
4. For willful or repeated violations of this chapter, this subtitle, or the rules of the state board of dentistry.
5. For obtaining any fee by fraud or misrepresentation.
6. For having failed to pay license ~~or registration~~ fees as provided herein.
7. For gross immorality or dishonorable or unprofessional conduct in the practice of dentistry, ~~or dental hygiene, or dental assisting~~.
8. ~~For the use of the name "clinic", "institute", or other title of similar import that may suggest a public or semipublic activity to designate what is in fact an individual or group private practice.~~
9. ~~8.~~ For failure to maintain a reasonably satisfactory standard of competency in the practice of dentistry, ~~or dental hygiene, or dental assisting~~.
10. ~~9.~~ For the conviction of a felony in the courts of this state or another state, territory, or country. Conviction as used in this subsection includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction.
11. ~~10.~~ For a violation of a law of this state, another state, or the United States, without regard to its designation as either a felony or misdemeanor, which law relates to the practice of dentistry, ~~or dental hygiene, or dental assisting~~. A certified copy of the final order or judgment of conviction or plea of guilty in this state or in another state constitutes conclusive evidence of the conviction.
12. ~~11.~~ The revocation or suspension of a license ~~or registration~~ to practice dentistry, ~~or dental hygiene, or dental assisting~~ or other disciplinary action taken by a licensing authority of another state, territory, or country. A certified copy of the record or order of suspension, revocation, or disciplinary action is conclusive or prima facie evidence.
13. ~~12.~~ Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice dentistry, ~~or dental hygiene, or dental assisting~~.
14. ~~13.~~ For an adjudication of mental incompetence by a court of competent jurisdiction. Such adjudication shall automatically suspend a license ~~or registration~~ for the duration of the license ~~or registration~~ unless the board orders otherwise.
15. ~~14.~~ Inability to practice dentistry, ~~or dental hygiene, or dental assisting~~ with reasonable skill and safety by reason of illness, drunkenness, or habitual or excessive use of drugs, intoxicants, narcotics, chemicals, or other types of materials or as a result of a mental or physical condition. At reasonable intervals following suspension or revocation under this subsection, a dentist, ~~or a dental hygienist, or dental assistant~~ shall be afforded an opportunity to demonstrate that the dentist, ~~or the dental hygienist, or dental assistant~~ can resume the competent practice of dentistry, ~~or dental hygiene, or dental assisting~~ with reasonable skill and safety to patients.
16. ~~15.~~ For being a party to or assisting in any violation of any provision of this chapter.

Sec. 22. Section 153.37, Code 2001, is amended to read as follows:

153.37 DENTAL COLLEGE AND DENTAL HYGIENE PROGRAM FACULTY PERMITS.

The state board of dental examiners may issue ~~to members of the faculty of the college of~~

~~dentistry~~ a faculty permit entitling the holder to practice dentistry or dental hygiene within the ~~a~~ college of dentistry or a dental hygiene program and affiliated teaching facilities as an adjunct to the faculty ~~members'~~ member's teaching ~~positions~~ position, associated responsibilities, and functions. The dean of the college of dentistry or chairperson of a dental hygiene program shall certify to the state board of dental examiners those bona fide members of the college's or a dental hygiene program's faculty who are not licensed and registered to practice dentistry or dental hygiene in Iowa. Any faculty member so certified shall, prior to commencing the member's duties in the college of dentistry or a dental hygiene program, make written application to the state board of dental examiners for a permit. The permit shall ~~expire on the first day of July next following the date of issuance~~ be for a period determined by the board and may be renewed at the discretion of the state board of dental examiners, ~~be renewed on a yearly basis.~~ The fee for the faculty permit and the renewal shall be set by the state board of dental examiners based upon the administrative cost of issuance of the permit. The fee shall be deposited in the same manner as fees provided for in section 147.82. The faculty permit shall be valid during the time the holder remains a member of the faculty ~~of the college of dentistry~~ and shall subject the holder to all provisions of this chapter.

Sec. 23. Section 153.39, subsection 3, Code 2001, is amended to read as follows:

3. Individuals employed as a dental assistant as of July 1, 2001, shall be registered with the board and receive a certificate of registration, and individuals employed as a dental assistant after July 1, 2001, shall have a ~~sixty-day~~ six-month period following their first date of employment after July 1, 2001, to comply with the provisions of subsection 1.

Sec. 24. Section 155A.3, subsection 31, Code 2001, is amended to read as follows:

31. "Prescription drug order" means a written order from a practitioner or an oral order from a practitioner or the practitioner's authorized agent who communicates the practitioner's instructions, ~~to a pharmacist~~ for a prescription drug or device to be dispensed.

Sec. 25. Section 155A.33, Code Supplement 2001, is amended to read as follows:

155A.33 DELEGATION OF TECHNICAL FUNCTIONS.

A pharmacist may delegate technical dispensing functions to pharmacy technicians, but only if the pharmacist is physically present to verify the accuracy and completeness of the patient's prescription prior to the delivery of the prescription to the patient or the patient's representative. However, the physical presence requirement does not apply when a pharmacist is utilizing an automated dispensing system. When using an automated dispensing system, the pharmacist shall utilize an internal quality control assurance plan that ensures accuracy for dispensing. Verification of automated dispensing accuracy and completeness remains the responsibility of the pharmacist and shall be determined in accordance with rules adopted by the board.

Sec. 26. Section 272C.3, subsection 1, paragraph d, Code Supplement 2001, is amended to read as follows:

d. Determine in any case whether an investigation, or further investigation, or a disciplinary proceeding is warranted. Notwithstanding the provisions of chapter 17A, a determination by a licensing board that an investigation is not warranted or that an investigation should be closed without initiating a disciplinary proceeding is not subject to judicial review pursuant to section 17A.19;

Sec. 27. Section 272C.5, subsection 2, paragraph c, Code Supplement 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, 543B.35, 543B.36, and 544B.16.~~

Sec. 28. NEW SECTION. 633.518 PRESUMPTION OF DEATH — PETITION AND INQUIRY.

If a petition is presented by an interested person to a district judge or magistrate alleging that a designated person has disappeared and after a diligent search cannot be found, and if it appears to the satisfaction of the judge or magistrate that the circumstances surrounding the disappearance afford reasonable grounds for the belief that the person has suffered death from accidental or other violent means, the judge or magistrate shall summon and impanel a jury of six qualified persons to inquire into the facts surrounding and the presumption to be raised from the disappearance. If no one submits a petition within forty days of the reported disappearance, a judge or magistrate may submit the petition from personal knowledge of the case.

Sec. 29. NEW SECTION. 633.519 PRESUMPTION OF DEATH — VERDICT AND ENTRY OF ORDER.

If a jury in an inquiry regarding the disappearance of an individual renders a unanimous verdict in writing that sufficient evidence has been presented to them from which it fairly may be presumed that the missing person has met death, and if the judge or magistrate concurs in the verdict, then, after a period of six months has elapsed, the person shall be presumed to be dead and the judge or magistrate shall enter an order to that effect. However, in cases where there is clear and convincing evidence of the presumed death, the judge or magistrate may enter the order prior to the elapsing of the six-month period.

Sec. 30. NEW SECTION. 633.520 PRESUMPTION OF DEATH — NATURAL OR MAN-MADE DISASTER.

A written finding of presumed death of a person resulting from a natural or man-made disaster, made by a local, state, or federal officer or employee authorized to make such a finding, or a duly certified copy of such a finding, shall be received by a judge or magistrate as evidence of the death of the person therein found to be dead, and of the date, circumstances, and place of the disappearance. Upon receipt of such evidence the judge or magistrate may enter an order of presumption of death of the person. Upon presentation of a certified court order, a certificate of death shall be filed pursuant to section 144.26.

Sec. 31. Sections 153.23 through 153.30, Code 2001, are repealed.

Approved April 11, 2002

CHAPTER 1109

ENERGY AND ENVIRONMENTAL RESEARCH AND DEVELOPMENT — IOWA ENERGY CENTER — ALTERNATIVE ENERGY REVOLVING LOAN PROGRAM

H.F. 2587

AN ACT relating to the Iowa energy center, including changes relating to salary adjustments, and promotion and administration of the alternative energy revolving loan program.

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

Section 1. Section 266.39C, subsection 3, Code 2001, is amended to read as follows:

3. Iowa state university of science and technology shall employ a director for the center,

who shall be appointed by the president of Iowa state university of science and technology. The director of the center shall employ necessary research and support staff. The director and staff shall be employees of Iowa state university of science and technology. No more than seven hundred thousand dollars of the funds made available by appropriation from state revenues in any one year shall be expended by the center for the salaries and benefits of the employees of the center, including the salary and benefits of the director. The limit on expenditures for salaries and benefits shall be adjusted annually by a percentage equal to the average percentage salary adjustment approved annually by the state board of regents for professional and scientific employees at Iowa state university of science and technology. The remainder of the funds appropriated from state funds shall be used to sponsor research grants and projects submitted on a competitive basis by Iowa colleges and universities and private nonprofit agencies and foundations. The center may also solicit additional grants and funding from public and private nonprofit agencies and foundations.

The director shall prepare an annual report.

Sec. 2. Section 266.39C, subsection 6, Code 2001, is amended by striking the subsection.

Sec. 3. Section 476.10A, Code 2001, is amended to read as follows:

476.10A FUNDING FOR IOWA ENERGY CENTER AND CENTER FOR GLOBAL AND REGIONAL ENVIRONMENTAL RESEARCH.

1. a. The board shall direct all gas and electric utilities to remit to the treasurer of state one-tenth of one percent of the total gross operating revenues during the last calendar year derived from their intrastate public utility operations. The board shall by rule provide a schedule for remittances ~~which shall require that the first remittance be made not before July 1, 1991.~~

b. The amounts collected pursuant to this section shall be in addition to the amounts permitted to be assessed pursuant to section 476.10. The board shall allow inclusion of these amounts in the budgets approved by the board pursuant to section 476.6, subsection 19, paragraph "c".

c. (1) Eighty-five percent of the remittances collected pursuant to this section is appropriated to the Iowa energy center created in section 266.39C.

(2) Fifteen percent of the remittances collected pursuant to this section is appropriated to the center for global and regional environmental research established by the state board of regents.

2. Notwithstanding section 8.33, any unexpended moneys remitted to the treasurer of state under this section shall be retained for the purposes designated. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys remitted under this section shall be retained and used for the purposes designated, pursuant to section 476.46.

3. The Iowa energy center and the center for global and regional environmental research shall each provide a written annual report to the utilities board ~~which that~~ describes each center's activities and the results that each center has accomplished. Each report shall include an explanation of initiatives and projects of importance to the state of Iowa.

Sec. 4. Section 476.46, subsection 2, Code 2001, is amended to read as follows:

2. a. An alternate energy revolving loan fund is created in the office of the treasurer of state to be administered by the Iowa energy center.

b. The fund shall include moneys remitted to the fund pursuant to subsection 3 and any other moneys appropriated or otherwise directed to the fund.

c. Moneys in the fund shall be used to provide loans for the construction of alternate energy production facilities or small hydro facilities as defined in section 476.42.

d. (1) A gas or electric utility ~~which that~~ is not required to be rate-regulated shall not be eligible for a loan under this section.

(2) A facility shall be eligible for no more than two hundred fifty thousand dollars in loans outstanding at any time under this program.

e. (1) Each loan shall be for a period not to exceed twenty years, shall bear no interest, and shall be repayable to the fund created under this section in installments as determined by the Iowa energy center. The interest rate upon delinquent payments shall accelerate immediately to the current legal usury limit.

(2) Any loan made pursuant to this program shall become due for payment upon sale of the facility for which the loan was made.

(3) Interest on the fund shall be deposited in the fund. A portion of the interest on the fund, not to exceed fifty percent of the total interest accrued, shall be used for promotion and administration of the fund.

f. Section 8.33 shall not apply to the moneys in the fund.

Approved April 11, 2002

CHAPTER 1110

DISTRICT ASSOCIATE JUDGE JURISDICTION

S.F. 415

AN ACT relating to the jurisdiction of district associate judges.

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

Section 1. Section 602.6306, subsection 2, Code 2001, is amended to read as follows:

2. District associate judges also have jurisdiction in civil actions for money judgment where the amount in controversy does not exceed ten thousand dollars, jurisdiction over involuntary commitment, treatment, or hospitalization proceedings under chapters 125 and 229, jurisdiction of indictable misdemeanors, and class "D" felony violations of section 321J.2, and other felony arraignments, jurisdiction to enter a temporary or emergency order of protection under chapter 236, and to make court appointments and set hearings in criminal matters, jurisdiction to enter orders in probate which do not require notice and hearing and to set hearings in actions under chapter 633, and the jurisdiction provided in section 602.7101 when designated as a judge of the juvenile court. While presiding in these subject matters a district associate judge shall employ district judges' practice and procedure.

Approved April 12, 2002

CHAPTER 1111**INSURANCE AND SECURITIES REGULATION —
MISCELLANEOUS PROVISIONS***S.F. 2279*

AN ACT relating to the regulated commercial activities of insurance and security sales, including rate adjustments for small group coverage, provisions pertaining to state and county mutual insurance associations, termination dates and licensed health care providers for emergency medical malpractice insurance, suspension of an insurer's certificate of authority for delinquency, exceptions to the right of a notice of intent not to renew, coverage requirements in a medical expense policy, tort immunity related to viatical settlement contracts, confidentiality of certain personal information in securities and insurance filings, postponement or suspension of registration under the blue sky law, reporting related to professional liability insurance, annual percentage rate used in calculations of the minimum nonforfeiture amount relating to individual deferred annuities, and providing for a future repeal.

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

Section 1. Section 272C.4, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

~~The commissioner of insurance shall by rule in consultation with the licensing boards enumerated in section 272C.1, require insurance~~ **Insurance** carriers which insure professional and occupational licensees for acts or omissions which ~~that~~ constitute negligence, careless acts or omissions in the practice of a profession or occupation to shall file reports with the ~~commissioner of insurance~~ appropriate licensing board. The reports shall include information pertaining to incidents by claims against a licensee which may affect the licensee as defined by rule, involving an insured of the insurer. ~~The commissioner of insurance shall forward reports pursuant to this section to the appropriate licensing board.~~

Sec. 2. Section 502.102, subsection 19, Code Supplement 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 investment 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 compa-

ny 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 502.102, subsection 21, Code Supplement 2001, is amended by striking the subsection and inserting in lieu thereof the following:

21. "Viatical settlement investment contract" means a contract entered into by a viatical settlement purchaser, to which the viator is not a party, to purchase a life insurance policy or an interest in the death benefits of a life insurance policy, which contract is entered into for the purpose of deriving economic benefit.

Sec. 4. Section 502.304, subsection 3, Code Supplement 2001, is amended to read as follows:

3. The administrator may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. Upon the entry of the order, the administrator shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent or investment adviser representative, that it has been entered and of the reasons ~~therefor~~ for the postponement or suspension and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the administrator, the order will remain in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination. Section 17A.18A is inapplicable to a summary order issued under this subsection.

Sec. 5. Section 502.608, subsection 2, Code 2001, is amended to read as follows:

2. The administrator shall keep a register of all applications for registration, notice filings, and registration statements ~~which that~~ are or have been effective under this chapter and predecessor laws, and all censure, denial, suspension, or revocation orders ~~which that~~ have been entered under this chapter and predecessor laws. All records may be maintained in an electronic or microfilm format or any other form of data storage. The register shall be open for public inspection. However, notwithstanding chapter 22, the administrator may keep confidential any social security number, residence address, and residence telephone number that is contained in these records if disclosure is not required in the performance of any duty or is not otherwise required under law.

Sec. 6. Section 505.8, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Notwithstanding chapter 22, the commissioner may keep confidential any social security number, residence address, and residence telephone number that is contained in a record filed as part of a licensing, registration, or filing process if disclosure is not required in the performance of any duty or is not otherwise required under law.

Sec. 7. NEW SECTION. 507C.60 SUSPENSION OF CERTIFICATE OF AUTHORITY.

Without advance notice or a hearing, the commissioner may suspend immediately the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation, or other delinquency proceedings have been commenced in any state by the public insurance supervisory official of that state.

Sec. 8. Section 508.31A, subsection 2, paragraph a, Code 2001, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) A person other than a natural person that has assets of at least twenty-five million dollars.

Sec. 9. Section 507E.7, subsection 3, Code 2001, is amended by striking the subsection.

Sec. 10. Section 508.38, subsection 3, paragraph a, unnumbered paragraph 1, Code 2001, is amended to read as follows:

With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of ~~three~~ one and one-half percent per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of (1) any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of ~~three~~ one and one-half percent per annum and (2) the amount of any indebtedness to the company on the contract, including interest due and accrued; and increased by any existing additional amounts credited by the company to the contract.

Sec. 11. NEW SECTION. 508E.3A IMMUNITY FROM LIABILITY.

1. A person acting without malice, fraudulent intent, or bad faith is not liable civilly as a result of filing a report, or otherwise furnishing, orally or in writing, other information concerning alleged acts in violation of this chapter, or the administrative rules that implement this chapter, if the report or information is provided to or received from any of the following:

- a. Law enforcement officials, and their agents or employees.
- b. The national association of insurance commissioners, the insurance division, a federal or state governmental agency or bureau established to detect and prevent fraudulent insurance or viatical settlement acts, or any other organization established for such purpose, and their agents, employees, or designees.
- c. An authorized representative of the life insurer that issued the insurance policy covering the life of the insured.

2. This section does not affect in any way any common law or statutory privilege or immunity applicable to such person or entity.

Sec. 12. Section 509.19, Code 2001, is amended to read as follows:

~~509.19 DISCLOSURE OF CLAIMS AND RELATED COSTS~~ CLAIMS AND PREMIUM DISCLOSURE TO POLICYHOLDERS.

1. ~~a.~~ A person issuing a policy or contract providing group health benefit coverages to a group of ~~one hundred~~ fifty-one or more persons ~~eligible employees as defined in chapter 513B~~ shall provide to the policyholder, contract holder, or sponsor of the group health benefit plan, upon request, ~~once in a twelve-month period, all of the following information:~~

- a. ~~Number of claims submitted to date.~~
- b. ~~Costs of claims submitted to date.~~
- c. ~~Average cost per claim, and average annual cost per covered individual annually, but not more than three months prior to the policy renewal date, the total amount of actual claims identified as paid or incurred and paid, and the total amount of premiums by line of coverage.~~
- d. ~~For purposes of this section, "line of coverage" includes medical, prescription drug card program, dental, vision, long-term disability, and short-term disability.~~
- e. ~~The information required by paragraph "a" shall be provided separately for the current policy year-to-date and for the prior policy year.~~

~~d.~~ The information shall be presented in the aggregate, and ~~required by paragraph "a"~~ shall not disclose any confidential information or otherwise disclose the identity of an individual insured, subscriber, or enrollee, who has submitted a claim within the time frame of the report.

2. For purposes of this section, "person issuing a policy or contract providing group health benefit coverages" includes all of the following:

- a. A person issuing a group policy of accident or health insurance pursuant to this chapter.
- b. A person issuing a group contract of a nonprofit health service corporation pursuant to chapter 514.
- c. A person issuing a group contract of a health maintenance organization pursuant to chapter 514B.

d. An organized delivery system authorized under 1993 Iowa Acts, chapter 158, licensed by the director of public health.

e. 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, that meets the requirements of section 507A.4, subsection 9, paragraph “a”.

f. A plan for public employees established pursuant to chapter 509A.

g. A person issuing or sponsoring an association group policy under section 509.14.

Sec. 13. Section 513B.4, subsection 1, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Any adjustment in rates for claims experience, health status, and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

Sec. 14. Section 513C.3, subsection 14, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Loss of eligibility for the hawk-i program authorized in chapter 514I.

Sec. 15. Section 514A.3, subsection 2, paragraph k, Code Supplement 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

k. A provision as follows:

INTOXICANTS AND NARCOTICS: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured’s being intoxicated or under the influence of any narcotic unless administered on the advice of a physician. This provision shall not be used with respect to a medical expense policy. For purposes of this provision, “medical expense policy” means an accident and sickness insurance policy that provides hospital, medical, and surgical expense coverage.

Sec. 16. Section 514E.1, subsection 6, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. l. The hawk-i program authorized by chapter 514I.

Sec. 17. Section 515.80, Code 2001, is amended to read as follows:

515.80 FORFEITURE OF POLICIES — NOTICE.

1. A policy or contract of insurance, unless otherwise provided in section 515.81A or 515.81B, provided for in this chapter shall not be forfeited, suspended, or canceled except by notice to the insured as provided in this chapter. A notice of cancellation is not effective unless mailed or delivered by the insurer to the named insured at least ~~twenty~~ thirty days before the effective date of cancellation, or, where cancellation is for nonpayment of a premium, assessment, or installment provided for in the policy, or in a note or contract for the payment thereof, at least ten days prior to the date of cancellation. The notice may be made in person, or by sending by mail a letter addressed to the insured at the insured’s address as given in or upon the policy, anything in the policy, application, or a separate agreement to the contrary notwithstanding.

2. An insurer shall not fail to renew a policy except by notice to the insured as provided in this chapter. A notice of intention not to renew is not effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. A notice of intention not to renew is not required if the insured is transferred from an insurer to an affiliate for future coverage as a result of a merger, acquisition, or company restructuring and if the transfer results in the same or broader coverage.

If the reason does not accompany the notice of cancellation or nonrenewal, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for cancellation or nonrenewal.

Sec. 18. Section 515.81B, Code 2001, is amended to read as follows:

515.81B NONRENEWAL OF COMMERCIAL LINES POLICIES OR CONTRACTS.

1. An insurer shall not fail to renew a commercial line policy or contract of insurance except by notice to the insured as provided in this section. Nonrenewal of a commercial line policy or contract includes a decision by the insurer not to renew the policy or contract, an increase in the premium of twenty-five percent or more, an increase in the deductible of twenty-five percent or more, or a material reduction in the limits or coverage of the policy or contract. However, a premium charge which is assessed after the beginning date of the policy period for which the premium is due shall not be deemed a premium increase for the purpose of this section.

2. A notice of nonrenewal is not effective unless mailed or delivered by the insurer to the named insured and any loss payee at least forty-five days prior to the expiration date of the policy. If the insurer fails to meet the notice requirements of this section, the insured has the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy or contract. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing.

3. This section applies to all forms of commercial property and casualty insurance written pursuant to this chapter. It does not apply if the insurer has offered to renew or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal. A notice of nonrenewal is not required if the insured is transferred from an insurer to an affiliate for future coverage as a result of a merger, acquisition, or company restructuring and if the transfer results in the same or broader coverage.

Sec. 19. NEW SECTION. 515.125A LIMITATION ON TERMINATION OF INDEPENDENT PRODUCERS.

An insurance company organized under this chapter or authorized to do business in this state shall not terminate a contract of an insurance producer who is an independent contractor but who is not an exclusive insurance producer as defined in section 522B.1 without at least one hundred eighty days' notice, except for loss of license, fraud, nonpayment of company premiums that are due and not in dispute by the producer, or the withdrawal of operations in the state by the insurance company. This section does not apply to insurance producers or a business entity whose contract with an insurer authorized to do business in this state contains a written provision expressly reserving to the insurer all right, title, and interest to the ownership or the use of insurance business written by such an insurance producer or business entity.

Sec. 20. Section 515B.5, subsection 1, paragraph c, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

The association shall also have the right to pursue and retain for its own account salvage and subrogation recoverable on paid covered claim obligations. An obligation of the association to defend an insured shall cease upon the association's payment or tender to an excess insurer of an amount equal to the lesser of the association's covered claim obligation or the applicable policy limits.

Sec. 21. Section 515B.5, subsection 1, paragraph d, Code Supplement 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

d. Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligations on covered claims and deny all other claims. The association may review settlements, releases, and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which settlements, releases, and judgments may properly be contested, and, to that end, any uncontested or default judgment against the insolvent insurer or its insured shall not be binding on the association. The association shall have the right to appoint or substitute legal counsel retained to defend insureds on covered claims.

Sec. 22. Section 515D.4, Code 2001, is amended to read as follows:

515D.4 NOTICE OF CANCELLATION — REASONS.

1. A policy shall not be canceled except by notice to the insured as provided in this chapter. Notice of cancellation of a policy is not effective unless it is based on one or more of the following reasons:

- a. Nonpayment of premium.
- b. Nonpayment of dues to an association or organization other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing insurance in force and the dues payment requirement was in effect prior to January 1, 1969.
- c. Fraud or material misrepresentation affecting the policy or the presentation of a claim.
- d. Violation of terms or conditions of the policy.
- e. Any reason permitted in subsection 2 for exclusion of a person from the policy.

2. A person shall not be excluded from the policy unless the exclusion is based on one or more of the following reasons, or is agreed upon by both the named insured and the insurer:

- a. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has that person's driver's license suspended or revoked during the policy term or, if the policy is a renewal, during its term or the one hundred eighty days immediately preceding its effective date.
- b. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has during the term of the policy engaged in a competitive speed contest while operating an automobile insured under the policy.
- c. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy, during the thirty-six months immediately preceding the notice of cancellation or nonrenewal, has been convicted of or forfeited bail for any of the following:

(1) Criminal negligence resulting in death, homicide, or assault and arising out of the operation of a motor vehicle.

(2) Operating a motor vehicle while intoxicated or while under the influence of a drug.

(3) A violation of section 321.261.

3. This section shall not apply to any policy or coverage which has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy. This section shall not apply to the nonrenewal of a policy.

4. During the policy period, a modification of automobile physical damage coverage, other than coverage for loss caused by collision, where provision is made for the application of a deductible amount not exceeding one hundred dollars, shall not be deemed a cancellation of the coverage or of the policy.

Sec. 23. Section 515D.7, Code 2001, is amended to read as follows:

515D.7 NOTICE OF INTENT.

1. Notwithstanding the provisions of sections 515.80 through 515.81B, an insurer shall not fail to renew a policy except by notice to the insured as provided in this chapter. A notice of intention not to renew shall not be effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. A post office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of intent not to renew, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than ~~twenty~~ thirty days prior to the expiration date of the policy, the insurer will state the reason for nonrenewal.

2. When the reason does not accompany the notice of intent not to renew, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for nonrenewal, together with notification of the right to a hearing before the commissioner within fifteen days as provided herein. A statement of reason shall be mailed or delivered to the named insured within ten days after receipt of a request.

3. This section shall not apply:

1. ~~a.~~ If the insurer has manifested its willingness to renew.
2. ~~b.~~ If the insured fails to pay any premium due or any advance premium required by the insurer for renewal.
- c. If the insured is transferred from an insurer to an affiliate for future coverage as a result of a merger, acquisition, or company restructuring and if the transfer results in the same or broader coverage.

Sec. 24. Section 515F.3, subsection 6, Code 2001, is amended to read as follows:

6. Insurance written by a county or state mutual insurance association as provided in chapter 518 or 518A.

Sec. 25. NEW SECTION. 518.16A LIMITATION ON TERMINATION OF INDEPENDENT PRODUCERS.

A county mutual insurance association authorized to do business in this state shall not terminate a contract of an insurance producer who is an independent contractor but who is not an exclusive insurance producer as defined in section 522B.1 without at least one hundred eighty days' notice, except for loss of license, fraud, nonpayment of association premiums that are due and not in dispute by the producer, or the withdrawal of operations in the state by the association.

Sec. 26. Section 518.17, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Reinsurance sufficient to protect the financial stability of the state mutual association is also required. ~~Reinsurance~~ In general, reinsurance coverage obtained by a county mutual insurance association shall not expose the association to losses from coverages written pursuant to this chapter of more than fifteen percent from surplus in any calendar year. The commissioner of insurance may require additional reinsurance if necessary to protect the policyholders of the association.

Sec. 27. Section 518.25, Code 2001, is amended to read as follows:

518.25 SURPLUS.

An association organized under this chapter shall at all times maintain a surplus of not less than fifty thousand dollars or one-tenth of one percent of the gross ~~property~~ risk in force, whichever is greater.

Sec. 28. Section 518A.2, Code 2001, is amended to read as follows:

518A.2 STATE MUTUAL ASSOCIATIONS.

Any association incorporated under the laws of this state for the purpose of furnishing insurance as provided for in this chapter ~~may is authorized to~~ do business ~~throughout the state in the county in which its principal place of business is located, the counties contiguous thereto, and the next tier of contiguous counties~~ and in other states where they are legalized and authorized to do business. Each association seeking to modify its authorized writing territory shall file with the commissioner a plan for controlled expansion demonstrating that provisions have been made adequately to service and protect policyholders. The expansion plan shall not be modified without the prior written approval of the commissioner, which approval shall not be unreasonably withheld. The words "mutual" and "association" shall be incorporated in and become a part of their name.

Sec. 29. Section 518A.37, Code 2001, is amended to read as follows:

518A.37 SURPLUS.

An association organized under this chapter shall at all times maintain a surplus of not less than one hundred thousand dollars, or one-tenth of one percent of the gross ~~property~~ risk in force, whichever is greater.

Sec. 30. NEW SECTION. 518A.42 LIMITATION ON TERMINATION OF INDEPENDENT PRODUCERS.

A state mutual insurance association authorized to do business in this state shall not terminate a contract of an insurance producer who is an independent contractor but who is not an exclusive insurance producer as defined in section 522B.1 without at least one hundred eighty days' notice, except for loss of license, fraud, nonpayment of association premiums that are due and not in dispute by the producer, or the withdrawal of operations in the state by the association.

Sec. 31. Section 518A.44, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Reinsurance sufficient to protect the financial stability of the state mutual insurance association is required. ~~Reinsurance In general, reinsurance~~ coverage obtained by an association shall not expose the association to losses from coverages written pursuant to this chapter of more than fifteen percent from surplus in any calendar year. The commissioner of insurance may require additional reinsurance if necessary to protect the policyholders of the association.

Sec. 32. Section 519A.2, subsection 3, Code 2001, is amended to read as follows:

3. "Licensed health care provider" means and includes a physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor or nurse licensed pursuant to chapter 147, ~~and a hospital licensed pursuant to chapter 135B, and a nursing facility licensed pursuant to chapter 135C.~~

Sec. 33. Section 519A.5, subsection 2, Code 2001, is amended to read as follows:

2. All policies issued by the association shall provide for a continuous period of coverage beginning with their respective effective dates ~~and terminating automatically at 12:01 a.m. on July 1, 1977, unless sooner terminated. All policies shall terminate at 12:01 a.m. two years from the date of finding of an emergency by the commissioner, or earlier in accordance with sections 519A.2 to through 519A.13,;~~ or unless terminated because of failure of the policyholder to pay any premium or stabilization reserve fund charge or portion of either when due. All policies shall be issued subject to the group retrospective rating plan and the stabilization reserve fund authorized by this chapter. No policy form shall be used by the association unless it has been filed with and approved by the commissioner.

Sec. 34. Section 519A.9, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~Within fifteen days after July 1, 1975 the~~ The commissioner shall designate a time and place for a meeting of the members of the association at which the eight elected members serving on the ~~first~~ board shall be elected. The commissioner shall appoint the appointive members of the board on or before the date of ~~such~~ the meeting.

Sec. 35. Section 522B.1, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Exclusive insurance producer" means a licensed insurance producer whose contract with an insurer requires the insurance producer to act as an agent only for that insurer or a group of insurers under common ownership or control or other insurers authorized by that insurer.

Sec. 36. FUTURE REPEAL. The section of this Act amending section 508.38, subsection 3, paragraph "a", is repealed July 1, 2004. Upon the effective date of the repeal, the Code editor shall revise the applicable Code language to that language that existed in the Code of Iowa 2001. Any intervening amendments to the language in section 508.38, subsection 3, paragraph "a", shall be stricken with the repeal, unless a subsequent Act specifically provides otherwise.

CHAPTER 1112

TRANSPORTATION SERVICES AND AIRCRAFT REGULATION

H.F. 2193

AN ACT relating to modal transportation, including changes in transit coordination requirements and changes in the aircraft registration process.

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

DIVISION I
TRANSIT COORDINATION

Section 1. Section 324A.2, unnumbered paragraphs 2 and 3, Code 2001, are amended by striking the unnumbered paragraphs.

Sec. 2. Section 324A.4, subsection 1, Code 2001, is amended to read as follows:

1. The department shall compile and maintain current information on ~~available and pending the use of~~ federal, state, local, and private aid affecting urban and rural public transit programs. Public, private, and private nonprofit organizations applying for or receiving federal, state, or local aid for providing transit services shall ~~provide a copy of their fiscal year operating budget annually prior to June 1 report to the department the costs of their transportation programs.~~ depicting funds used for public transit programs and such other information as the department may require prior to receiving any federal or state funds or any aid from a political subdivision of the state. The ~~operating budget report~~ shall list all of the funding sources of the organization along with the listing of funds expended by that organization during the preceding fiscal year. The department, in ~~co-operation~~ cooperation with the regional planning agencies as the responsible agency for annual updating the regional transit development programs, shall compile this information annually. ~~Any~~ A state agency or organization administering funds for transit services is required to submit all funding requests through the regional and state clearinghouse and the state department of transportation. ~~Any~~ An organization, state agency, political subdivision, ~~and~~ or public transit system, except public school transportation, receiving federal, state, or local aid to provide or contract for public transit services or transportation to the general public and specific client groups, must coordinate and consolidate funding and resulting service, to the maximum extent possible, with the urban or regional transit system.

Sec. 3. Section 324A.4, subsection 2, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Eligibility to receive or expend federal, state, or local funds for transportation services by all agencies or organizations purchasing or providing these services shall be contingent upon compliance with these criteria as determined by the department, ~~except that services provided by or purchased by the department of human services, which include transportation, shall be subject to section 324A.5, subsection 3, paragraph "c".~~

Sec. 4. Section 324A.5, subsection 1, Code 2001, is amended by striking the subsection.

Sec. 5. Section 324A.5, subsection 3, paragraph c, Code 2001, is amended by striking the paragraph.

DIVISION II
AIRCRAFT

Sec. 6. Section 328.21, subsection 6, Code 2001, is amended to read as follows:

6. An aircraft, unless exempt under section 328.35, which is ~~damaged,~~ is not airworthy, and

is not in flying condition is not subject to registration fees if the owner of the aircraft submits information required by the department. Upon receipt of that information, the department shall issue a certificate ~~which that~~ states that the registration fee has not been paid and that the aircraft shall not use the airports or the air space overlying the state until the fee has been paid.

Sec. 7. Section 328.27, Code 2001, is amended to read as follows:

328.27 ISSUANCE OF CERTIFICATES.

The department shall issue, upon receipt of proper application and fee for registration, a certificate of registration which shall be numbered and recorded by the department, shall state the name and address of the person to whom it is issued, shall be titled with the designation of the class of registrant covered and shall contain other information as the department may prescribe including, in the case of aircraft, a description of the aircraft. A certificate of registration ~~or special certificate~~ expires at midnight on the last day of the twelfth month of the registration year.

Sec. 8. Section 328.28, Code 2001, is amended to read as follows:

328.28 OPERATION UNDER SPECIAL CERTIFICATE.

1. A manufacturer or dealer owning ~~any an~~ aircraft otherwise required to be registered ~~hereunder under this chapter~~ may operate the same aircraft for purposes of transporting, testing, demonstrating, or selling the same aircraft without registering ~~each such the~~ aircraft, upon condition that ~~any such aircraft display therein~~ a special certificate issued to ~~such be obtained by the~~ owner as provided in this section and sections 328.29 ~~to through~~ 328.33.

2. A transporter may operate ~~any such an~~ aircraft ~~described in subsection 1~~ solely for the purpose of delivery upon ~~likewise displaying therein, obtaining~~ a special certificate issued to the transporter as provided in ~~these sections this section and sections 328.29 through 328.33.~~

3. The provisions of this section and sections 328.29 ~~to through~~ 328.33 shall not apply to aircraft owned by a manufacturer, transporter, or dealer, which are used for hire or principally for transportation of persons and property, aside from the transporting of the aircraft itself, or testing or demonstrating thereof.

Sec. 9. Section 328.29, Code 2001, is amended to read as follows:

328.29 APPLICATION FOR SPECIAL CERTIFICATE — FEE.

~~At the time of annual registration, a~~ A manufacturer, transporter, or dealer, may, upon payment of a one hundred dollar fee ~~and an additional ten dollar fee for each aircraft~~, make application to the department upon such forms as the department may prescribe for a special certificate ~~issued for each aircraft in inventory~~. The applicant shall also submit such reasonable proof of the applicant's status as a bona fide manufacturer, transporter, or dealer as the department may require. Dealers in new aircraft shall furnish satisfactory evidence of a valid franchise with the manufacturer or distributor of such aircraft authorizing such dealership.

Sec. 10. Section 328.30, Code 2001, is amended to read as follows:

328.30 ISSUANCE OF SPECIAL CERTIFICATE.

The department upon granting an application shall issue to the applicant a special certificate ~~for each aircraft containing the applicant's name, and address, the distinguishing number assigned to the aircraft, and other information as the department may prescribe.~~

Sec. 11. Section 328.32, Code 2001, is amended to read as follows:

328.32 EXPIRATION OF SPECIAL CERTIFICATE.

A special certificate expires at midnight on ~~the last day of the registration year~~ June 30, and a new special certificate for the ensuing year may be obtained by the person to whom the expired special certificate was issued, upon application to the department, and payment of the fee provided by law in section 328.29.

Sec. 12. Section 328.33, Code 2001, is amended to read as follows:
328.33 RECORDS REQUIRED.

~~Every~~ A manufacturer, transporter, or dealer shall keep a written record of the aircraft ~~upon which such special certificates are used in the manufacturer's, transporter's, or dealer's inventory~~, which records shall be open to inspection of any ~~police~~ peace officer, or any officer or employee of the department.

Sec. 13. Section 328.35, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. An aircraft in the inventory of a manufacturer, transporter, or dealer who has a special certificate issued by the department and the special certificate is in effect.

Sec. 14. Section 328.37, Code 2001, is amended to read as follows:
328.37 OPERATIONS UNLAWFUL WITHOUT CERTIFICATE.

Except as provided in section 328.35, it is unlawful for a person to operate, or cause or authorize to be operated, a civil aircraft, airport, or landing area in this state, unless there has been issued for the aircraft or to the airport or landing area an appropriate certificate of registration ~~or special certificate~~ by the department and the certificate is in effect.

Sec. 15. Section 328.31, Code 2001, is repealed.

Approved April 12, 2002

CHAPTER 1113

DOCUMENTS AND RECORDS FILED WITH COUNTY RECORDER — SNOWMOBILE AND ALL-TERRAIN VEHICLE TITLES — REGISTRATION OF VESSELS

H.F. 2365

AN ACT relating to county recorders, including certain documents indexed and recorded with the county recorder and a method for issuing certificates of title for snowmobiles and all-terrain vehicles, and registration certificates for certain watercraft, for which ownership has not been conclusively established.

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

Section 1. Section 10A.108, subsection 5, Code 2001, is amended to read as follows:

5. The recorder shall endorse on each notice of lien the day and time received and shall preserve the notice. The recorder shall index the notice ~~in the index book~~ and shall record the lien in the manner provided for recording real estate mortgages. The lien shall be effective from the time of the indexing.

Sec. 2. Section 124C.4, subsection 3, Code 2001, is amended to read as follows:

3. Each notice of lien shall be endorsed with the day, hour, and minute when the notice was received, and the notice shall be preserved, indexed ~~in the index book~~, and recorded in the manner provided for recording real estate mortgages. The lien shall be effective from the time of its indexing. The department shall pay a recording fee as provided by section 331.604 for the recording of the lien or for its satisfaction.

Sec. 3. Section 321G.29, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 10. If the county recorder is not satisfied as to the ownership of the snowmobile or all-terrain vehicle or that there are no undisclosed security interests in the snowmobile or all-terrain vehicle, the county recorder may issue a certificate of title for the snowmobile or all-terrain vehicle, but, as a condition of such issuance, may require the applicant to file with the department a bond in the form prescribed by the department and executed by the applicant, and also executed by a person authorized to conduct a surety business in this state. The form and amount of the bond shall be established by rule of the department. The bond shall be conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the snowmobile or all-terrain vehicle or person acquiring any security interest in the snowmobile or all-terrain vehicle, and their respective successors in interest, against any expense, loss, or damage, including reasonable attorney fees, by reason of the issuance of the certificate of title of the snowmobile or all-terrain vehicle or on account of any defect in or undisclosed security interest upon the right, title, and interest of the applicant in and to the snowmobile or all-terrain vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of three years or prior thereto if the snowmobile or all-terrain vehicle is no longer registered in this state and the certificate of title is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

Sec. 4. **NEW SECTION.** 331.606A DOCUMENT CONTENT — PROHIBITION OF INCLUDING SOCIAL SECURITY NUMBER.

The preparer of a document shall not include an individual's federal social security number in a document that is prepared for recording in the office of county recorder. This section does not apply to a preparer of a state or federal tax lien or a military separation or discharge record that is prepared for recording in the office of county recorder. If a military separation or discharge record is recorded in the office of the county recorder, the military separation or discharge record shall not be accessible through the internet.

Sec. 5. Section 331.602, subsection 4, Code Supplement 2001, is amended by striking the subsection.

Sec. 6. Section 354.16, subsection 2, paragraph c, Code 2001, is amended to read as follows:

c. A list for each lot within the plat of the proprietor's names, the area, expressed in acreage or square feet, the ~~book and page~~ document reference number of the recorded conveyance to the proprietors and the permanent real estate index number, where established.

Sec. 7. Section 424.11, unnumbered paragraph 4, Code 2001, is amended by striking the unnumbered paragraph.

Sec. 8. Section 424.11, unnumbered paragraph 5, Code 2001, is amended to read as follows:

The recorder shall endorse on each notice of lien the day, hour, and minute when received and preserve the notice, and shall immediately index the notice ~~in the index book~~ and record the lien in the manner provided for recording real estate mortgages, and the lien shall be effective from the time of its indexing.

Sec. 9. Section 462A.5, subsection 1, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

The owner of the vessel shall file an application for registration with the appropriate county recorder on forms provided by the commission. The application shall be completed and signed by the owner of the vessel and shall be accompanied by the appropriate fee, and the writing fee specified in section 462A.53. Upon applying for registration, the owner shall display a bill

of sale, receipt, or other satisfactory proof of ownership as provided by the rules of the commission to the county recorder. If the county recorder is not satisfied as to the ownership of the vessel or that there are no undisclosed security interests in the vessel, the county recorder may register the vessel but shall, as a condition of issuing a registration certificate, require the applicant to follow the procedure provided in section 462A.5A. Upon receipt of the application in approved form accompanied by the required fees, the county recorder shall enter it upon the records of the recorder's office and shall issue to the applicant a pocket-size registration certificate. The certificate shall be executed in triplicate, one copy to be delivered to the owner, one copy to the commission, and one copy to be retained on file by the county recorder. The registration certificate shall bear the number awarded to the vessel, the passenger capacity of the vessel, and the name and address of the owner. In the use of all vessels except nonpowered sailboats, nonpowered canoes, and commercial vessels, the registration certificate shall be carried either in the vessel or on the person of the operator of the vessel when in use. In the use of nonpowered sailboats, nonpowered canoes, or commercial vessels, the registration certificate may be kept on shore in accordance with rules adopted by the commission. The operator shall exhibit the certificate to a peace officer upon request or, when involved in a collision or accident of any nature with another vessel or other personal property, to the owner or operator of the other vessel or personal property.

Sec. 10. NEW SECTION. 462A.5A FILING BOND AS ASSURANCE OF OWNERSHIP.

An applicant for registration of a vessel for which the county recorder is not satisfied as to the ownership of the vessel as provided in section 462A.5, subsection 1, shall file with the department a bond in the form prescribed by the department and executed by the applicant, and also executed by a person authorized to conduct a surety business in this state. The form and amount of the bond shall be established by rule of the department. The bond shall be conditioned to indemnify any prior owner and secured party and any subsequent purchaser of the vessel or person acquiring any security interest in the vessel, and their respective successors in interest, against any expense, loss, or damage, including reasonable attorney fees, by reason of the issuance of the registration certificate of the vessel or on account of any defect in or undisclosed security interest upon the right, title, and interest of the applicant in and to the vessel. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of three years or prior thereto if the vessel is no longer registered in this state and the registration certificate is surrendered to the department, unless the department has been notified of the pendency of an action to recover on the bond.

Approved April 12, 2002

CHAPTER 1114

SCHOOL FINANCE — WEIGHTING FOR LIMITED ENGLISH PROFICIENT STUDENTS

H.F. 2404

AN ACT relating to the amount of additional weighting provided for limited English proficient students.

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

Section 1. Section 280.4, subsection 3, Code 2001, is amended to read as follows:

3. In order to provide funds for the excess costs of instruction of limited English proficient

students above the costs of instruction of pupils in a regular curriculum, students identified as limited English proficient shall be assigned an additional weighting of twenty-two hundredths, and that weighting shall be included in the weighted enrollment of the school district of residence for a period not exceeding three years. However, the school budget review committee may grant supplemental aid or modified allowable growth to a school district to continue funding a program for students after the expiration of the three-year period. ~~The school budget review committee shall calculate the additional amount for the weighting to the nearest one-hundredth of one percent so that to the extent possible the moneys generated by the weighting will be equivalent to the moneys generated by the two-tenths weighting provided prior to July 2, 1991.~~

Approved April 12, 2002

CHAPTER 1115

IOWA CULTURAL TRUST

H.F. 2571

AN ACT relating to the establishment of an Iowa cultural trust, an Iowa cultural trust fund, and an Iowa cultural trust grant account, providing for the issuance of trust fund credits, and providing for related matters.

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

Section 1. Section 303.1A, Code 2001, is amended by adding the following new subsection: **NEW SUBSECTION.** 6. Administer the Iowa cultural trust as provided in chapter 303A and do all of the following:

a. Develop and adopt by rule criteria for the issuance of trust fund credits by measuring the efforts of qualified organizations, as defined in section 303A.3, to increase their endowment or other resources for the promotion of the arts, history, or the sciences and humanities in Iowa. If the director determines that the organizations have increased the amount of their endowment and other resources, the director shall certify the amount of increase in the form of trust fund credits to the treasurer, who shall deposit in the Iowa cultural trust fund, from moneys received for purposes of the trust fund as provided in section 303A.4, subsection 2, an amount equal to the trust fund credits. If the amount of the trust fund credits issued by the director exceeds the amount of moneys available to be deposited in the trust fund as provided in section 303A.4, subsection 2, the outstanding trust fund credits shall not expire but shall be available to draw down additional moneys which become available to be deposited in the trust fund as provided in section 303A.4, subsection 2.

b. Develop and implement, in accordance with chapter 303A, a grant application process for grants issued to qualified organizations as defined in section 303A.3.

c. Develop and adopt by rule criteria for the approval of Iowa cultural trust grants. The criteria shall include, but shall not be limited to, the future stability and sustainability of a qualified organization.

d. Compile, in consultation with the Iowa arts council and the state historical society of Iowa, a list of grant applications recommended for funding in accordance with the amount available for distribution as provided in section 303A.6, subsection 3. The list of recommended grant applications shall be submitted to the Iowa cultural trust board of trustees for approval.

e. Monitor the allocation and use of grant moneys by qualified organizations to determine whether moneys are used in accordance with the provisions of this subsection and chapter 303A. The director shall annually submit the director's findings and recommendations in a report to the Iowa cultural trust board of trustees prior to final board action in approving grants for the next succeeding fiscal year.

Sec. 2. NEW SECTION. 303A.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Iowa Cultural Trust Act".

Sec. 3. NEW SECTION. 303A.2 LEGISLATIVE FINDINGS.

The general assembly finds and declares that cultural organizations generate millions of dollars in economic activity in Iowa; attract people to live and work in Iowa's communities, contribute to a revitalization of those communities; are a magnet for tourists; train minds for the creative economy jobs of the future; and build social capital. However, these organizations are often undercapitalized. Therefore, to bring financial stability to these organizations through fluctuating economic conditions, it is the intent of the general assembly that a public trust be established the income from which may be made available to supplement the operating budgets of nonprofit cultural organizations that meet certain criteria, including a commitment to strategies to attain long-term financial stability and sustainability. It is further the intent of the general assembly that income from the public trust may be used initially for a statewide educational program to assist cultural organizations in endowment development.

Sec. 4. NEW SECTION. 303A.3 DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

1. "Board" means the board of trustees of the Iowa cultural trust created in section 303A.5.
2. "Department" means the department of cultural affairs created in section 303.1.
3. "Director" means the director of the department of cultural affairs.
4. "Grant account" means the Iowa cultural trust grant account created in section 303A.7.
5. "Qualified organization" means a tax-exempt, nonprofit organization whose primary mission is to promote the arts, history, or the sciences and humanities in Iowa.
6. "Trust fund" means the Iowa cultural trust fund created in section 303A.4.

Sec. 5. NEW SECTION. 303A.4 IOWA CULTURAL TRUST AND TRUST FUND.

1. The Iowa cultural trust is created as a public body corporate organized for the purposes, with the powers, and subject to the restrictions, set forth in this chapter.
2. An Iowa cultural trust fund is created in the office of the treasurer of state for the purpose of receiving moneys appropriated by the general assembly and any other moneys available to the trust fund due to the issuance of trust fund credits by the director as provided in section 303.1A, subsection 6.
3. The trust fund may also receive any devise, gift, bequest, donation, or federal or other grant from any person, firm, partnership, or corporation. Any assets received by the trust fund from federal or private sources shall at all times be preserved, invested, and expended solely for the purposes of the trust fund and shall be held in trust as provided for in this section. No property rights in the assets received by the trust fund from federal or private sources shall exist in favor of the state.
4. The treasurer of state shall act as custodian of the fund, shall invest moneys in the trust fund, and shall transfer the interest attributable to the investment of trust fund moneys to the grant account created in section 303A.7. The trust fund's principal shall not be used or accessed by the department or the board for any purpose.
5. Notwithstanding section 8.33, moneys remaining in the trust fund at the end of the fiscal year shall be retained in the trust fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the trust fund shall be credited to the trust fund.

Sec. 6. NEW SECTION. 303A.5 BOARD OF TRUSTEES.

1. A board of trustees of the Iowa cultural trust is created. The general responsibility for the proper operation of the trust is vested in the board of trustees, which shall consist of thirteen members as follows:

a. Nine public members, five of whom shall be appointed by the governor, subject to confirmation by the senate. The majority leader of the senate, the minority leader of the senate, the speaker of the house, and the minority leader of the house of representatives shall each appoint one public member. A public member of the board appointed in accordance with this section shall not also serve concurrently as a member of the state historical society board of trustees or the Iowa state arts council.

b. Four ex officio, nonvoting members, consisting of the treasurer of state or the treasurer's designee, the director of the department of cultural affairs or the director's designee, the chairperson of the state historical society board of trustees elected pursuant to section 303.6, and the chairperson of the Iowa state arts council designated pursuant to section 303.86.

2. Members appointed by the general assembly shall be appointed to two-year terms. The public members appointed by the governor shall serve five-year staggered terms beginning and ending as provided in section 69.19. Vacancies on the board shall be filled for the unexpired portion of the term in the same manner as the original appointments.

3. Members appointed by the governor are subject to the requirements of sections 69.16, 69.16A, and 69.19.

4. Public members shall serve without compensation, but shall be reimbursed for all actual and necessary expenses they incur through service on the board.

5. The board shall elect a chairperson and vice chairperson from among its membership. The board shall meet at the call of its chairperson or upon written request of a majority of its voting members. Five voting members constitute a quorum. The concurrence of a majority of the voting members of a board is required to take any action relating to its duties.

6. The board shall be located for administrative purposes within the department. The department, subject to approval by the board, shall adopt administrative rules pursuant to chapter 17A necessary to administer the income derived from the Iowa cultural trust fund and to perform specific powers and duties as provided in section 303A.6. The director shall budget funds to pay the expenses of the board and administer this chapter.

Sec. 7. NEW SECTION. 303A.6 BOARD OF TRUSTEES — POWERS AND DUTIES.

The board shall do any or all of the following:

1. Enter into agreements with any qualified organization, the state, or any federal or other state agency, or other entity as required to administer this chapter.

2. Approve or disapprove the grants recommended for approval by the director, in consultation with the Iowa arts council and the state historical society of Iowa, in accordance with section 303.1A, subsection 6, paragraph "c". The board may delete any recommendation, but shall not add to or otherwise amend the list of recommended grants.

3. Upon approving a grant, the board shall certify to the treasurer of state the amount of financial assistance payable from the trust account to the qualified organization whose grant application is approved.

4. Determine, in consultation with the treasurer of state, the amount of investment income attributable to the trust fund that will be available for distribution as grants to qualified organizations.

5. Accept any devise, gift, bequest, donation, or federal or other grant from any person, firm, partnership, or corporation, which the treasurer of state shall deposit into the trust fund.

Sec. 8. NEW SECTION. 303A.7 IOWA CULTURAL TRUST ACCOUNT.

1. An Iowa cultural trust grant account is created in the office of the treasurer² under the control of the board to receive interest attributable to the investment of trust fund moneys as required by section 303A.4, subsection 4. The moneys in the grant account are appropriated to the board for purposes of the Iowa cultural trust created in section 303A.4. Moneys in the

² See chapter 1175, §82 herein

grant account shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes of the Iowa cultural trust. The treasurer of state shall act as custodian of the grant account and disburse moneys contained in the grant account as directed by the board. The board shall make expenditures from the grant account consistent with the purposes of the Iowa cultural trust.

2. Moneys in the grant account are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the grant account shall be credited to the grant account.

3. For the fiscal period beginning July 1, 2003, and ending June 30, 2005, the board may use moneys in the grant account for a statewide educational program to promote participation in, expanded support of, and local endowment building for, Iowa nonprofit arts, history, and sciences and humanities organizations.

Sec. 9. INITIAL APPOINTMENTS. The governor's initial public appointments to the board of trustees of the Iowa cultural trust created in section 303A.5, as enacted in this Act, shall be made as follows:

1. One member to a one-year term.
2. Two members to three-year terms.
3. Two members to five-year terms.

Approved April 12, 2002

CHAPTER 1116

LIMITATIONS ON PROSECUTIONS OF CRIMINAL ACTIONS — PERSONS ABSENT FROM STATE

S.F. 2034

AN ACT relating to the filing of a criminal indictment or trial information against a person who is not present in the state.

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

Section 1. Section 802.6, subsection 1, Code 2001, is amended to read as follows:

1. When a person leaves the state ~~with the intention of avoiding prosecution~~, the indictment or ~~prosecution information~~ information may be found or commenced within the time herein limited after the person's coming into the state, and no period during which the party charged was not publicly resident within the state is a part of the limitation.

Approved April 22, 2002

CHAPTER 1117**PUBLIC DEFENSE, EMERGENCY MANAGEMENT,
AND IOWA TECHNOLOGY CENTER***S.F. 2124*

AN ACT relating to the department of public defense by amending the state military code and the Iowa code of military justice, creating a statewide mutual aid compact, providing for the confidentiality of certain records, exempting the department of public defense from certain state service contract requirements and state competitive bidding requirements, exempting the Iowa technology center from anticompetition provisions, increasing a standing appropriation, providing criminal penalties for violations, and providing effective dates.

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

**DIVISION I
MILITARY DIVISION**

Section 1. Section 8.47, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. This section does not apply to service contracts or other agreements for services by the department of public defense that are funded with at least seventy-five percent federal moneys. The department of public defense shall establish terms and conditions for service contracts and other agreements for services that comply with this section to the greatest extent possible.

Sec. 2. Section 29A.1, subsection 9, Code Supplement 2001, is amended to read as follows:

9. "On duty" means training, including unit training assemblies, and other training, operational duty, and other service which may be required under state or federal law, regulations, or orders, and the necessary travel of an officer or enlisted person to the place of performance and return home after performance of that duty, but does not include federal service. A member of the national guard shall be considered to be on duty when called to testify about an incident which the member observed or was involved in while that member was on duty.

Sec. 3. Section 29A.1, subsection 11, Code Supplement 2001, is amended to read as follows:

11. "State active duty" means duty authorized and performed under section 29A.8 ~~or 29A.9~~ and paid for with state funds. "State active duty" also includes serving as the adjutant general, a deputy adjutant general, or the state quartermaster.

Sec. 4. Section 29A.7, Code Supplement 2001, is amended to read as follows:
29A.7 COMMANDER IN CHIEF.

1. The governor is the commander in chief of the military forces, except when they are in federal service. The governor may employ the military forces of the state for the defense or relief of the state, ~~the enforcement of its laws, the protection of life and property,~~ to provide assistance to civil authorities in emergencies resulting from disasters or public disorders as defined in section 29C.2, including homeland security and defense duties, and ~~for~~ parades and ceremonies of a civic nature.

2. The governor shall provide for the participation of the national guard in training at the times and places as necessary to ensure readiness for public defense or federal service.

3. If circumstances necessitate the establishment of a military district under martial law and the general assembly is not convened, the district shall be established only after the governor has issued a proclamation convening an extraordinary session of the general assembly.

Sec. 5. Section 29A.8, subsection 1, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

The governor may order into state active duty the military forces of the state, including retired members of the national guard, ~~both army and air~~, as the governor deems proper, under ~~command of an officer as the governor may designate~~ under one or more of the following circumstances:

Sec. 6. Section 29A.8, subsection 1, paragraphs b and c, Code Supplement 2001, are amended to read as follows:

b. For the purpose of ~~aiding~~ assisting the civil authorities of any political subdivision of the state in maintaining law and order in the subdivision in cases of breaches of the peace or imminent danger of breaches of the peace, if the law enforcement officers of the subdivision are unable to maintain law and order, and the civil authorities of the subdivision request the assistance.

c. For the purposes of providing support to civil authorities during emergencies resulting from disasters or public disorders and for performing homeland defense or homeland security duties.

Sec. 7. Section 29A.8, subsection 1, Code Supplement 2001, is amended by adding the following new paragraphs:

NEW PARAGRAPH. d. For training, recruiting, escort duty, and duty at schools of instruction, as a student or instructor, including at the Iowa military academy.

NEW PARAGRAPH. e. To participate in parades and ceremonies of a civic nature.

NEW PARAGRAPH. f. For other purposes as the governor may deem necessary.

Sec. 8. Section 29A.8, subsection 2, Code Supplement 2001, is amended by striking the subsection and inserting in lieu thereof the following:

2. The governor may prescribe regulations and requirements for duties performed under this section.

Sec. 9. Section 29A.8A, Code Supplement 2001, is amended to read as follows:

29A.8A ACTIVE STATE SERVICE.

If federal funding and authorization exist for this purpose, the governor may order to active state service the military forces of the Iowa army national guard or Iowa air national guard as the governor may deem appropriate for the purposes of homeland security, homeland defense, or other duty. A state employee shall take either a full day's leave or eight hours of compensatory time on a day in which the state employee receives a full day's pay from federal funds for national guard duty.

Sec. 10. Section 29A.19, Code 2001, is amended to read as follows:

29A.19 QUARTERMASTER.

A present or retired commissioned officer of the national guard who has ten years' service in the Iowa army national guard or the Iowa air national guard and has attained the grade of a field officer, shall be detailed to be the quartermaster and property officer of the state, who shall have charge of and be accountable for, under the adjutant general, all state military property. The quartermaster shall keep property returns and reports and give bond to the state of Iowa as the governor may direct.

Sec. 11. Section 29A.25, Code 2001, is amended to read as follows:

29A.25 ENLISTMENTS AND DISCHARGES.

All enlistments and discharges in the national guard shall be as prescribed by federal law and regulations.

Sec. 12. Section 29A.26, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The number and grade of officers and enlisted personnel in the state headquarters and headquarters detachment shall be as prescribed by federal law and regulations, ~~but~~. However, in case of war, invasion, insurrection, ~~not~~ emergency, or imminent danger thereof, the governor may temporarily increase ~~such~~ the force to meet ~~such emergency~~ the circumstance.

Sec. 13. Section 29A.26, unnumbered paragraph 2, Code 2001, is amended by striking the unnumbered paragraph.

Sec. 14. Section 29A.31, Code 2001, is amended to read as follows:

29A.31 UNLAWFUL ORGANIZATIONS.

It shall be unlawful for any ~~body of persons, other than the national guard and the troops of the United States, to associate themselves together as~~ person to form a military organization within the limits of this state without the written permission of the governor, which the governor may at any time revoke, but this provision shall not prevent civic, social, or benevolent organizations from wearing uniforms and ~~swords~~ equipment not in conflict with the other provisions of this chapter.

Sec. 15. Section 29A.40, unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~No~~ A member of the national guard shall ~~not~~ wear the uniform ~~thereof of the national guard~~ while not on duty ~~without permission from competent authority, except in accordance with state or federal regulations~~. ~~No~~ A person, firm, or corporation, other than a civic, social, or benevolent military organization or the members of such organizations organizing for the benefit of all its members, shall ~~not~~ incorporate under the name of, or adopt any trade name which embodies the name or designation, officially or generally recognized as the name of a military organization now or ~~heretofore~~ formerly in existence, or any distinctive part of such name. ~~Any person found guilty of a violation of any of the provisions of this section shall be guilty of a simple misdemeanor.~~

Sec. 16. Section 29A.41, Code 2001, is amended to read as follows:

29A.41 EXEMPTIONS — ~~HONORABLE DISCHARGE~~.

A member of the national guard shall not be arrested, or served with a summons, order, warrant or other civil process after having been ordered to any duty, or while going to, attending, or returning from, any place to which the ~~officer or enlisted person~~ national guard member is required to go for military duty. This section does not prevent the ~~officer's or enlisted person's~~ national guard member's arrest by order of a military officer or for a felony or breach of the peace committed while not in the actual performance of the ~~officer's or enlisted person's~~ national guard member's duty. The articles of equipment personally owned by such members are exempt from seizure or sale for debt. ~~Every member of the national guard who has faithfully served the full term of the member's commission, warrant or enlistment is entitled, upon application, to an honorable discharge, exempting the member from military duty except in time of war or public danger.~~

Sec. 17. Section 29A.43, Code Supplement 2001, is amended to read as follows:

29A.43 DISCRIMINATION PROHIBITED — LEAVE OF ABSENCE.

A person shall not discriminate against any officer or enlisted person of the national guard or organized reserves of the armed forces of the United States because of that membership. An employer, or agent of an employer, shall not discharge a person from employment because of being an officer or enlisted person of the military forces of the state, or hinder or prevent the officer or enlisted person from performing any military service the person is called upon to perform by proper authority. A member of the national guard or organized reserves of the armed forces of the United States ordered to temporary duty, as defined in section 29A.1, sub-

section 1, 3, or 11, for any purpose is entitled to a leave of absence during the period of the duty or service, from the member's private employment, other than employment of a temporary nature, and upon completion of the duty or service the employer shall restore the person to the position held prior to the leave of absence, or employ the person in a similar position. However, the person shall give evidence to the employer of satisfactory completion of the training or duty, and that the person is still qualified to perform the duties of the position. The period of absence shall be construed as an absence with leave, and shall in no way affect the employee's rights to vacation, sick leave, bonus, or other employment benefits relating to the employee's particular employment. A person violating a provision of this section is guilty of a simple misdemeanor.

Sec. 18. Section 29A.50, Code 2001, is amended to read as follows:

29A.50 IMMUNITY.

The commanding officer and members of any of the military forces engaged in the suppression of an insurrection, ~~the dispersion of a mob~~ assistance to civil authorities in emergencies, homeland defense, or security duties, or the enforcement of the laws, shall have the same immunity as peace officers.

Sec. 19. Section 29A.51, Code 2001, is amended to read as follows:

29A.51 SUIT OR PROCEEDING — DEFENSE.

If a suit or proceeding is commenced in any court by any person against ~~an officer~~ a member of the military forces of the state for an act done by ~~that officer~~ the member in the ~~officer's~~ member's official capacity in the discharge of a duty under this chapter or chapter 29B, ~~or against an enlisted person acting under the authority or order of an officer, or by virtue of a warrant issued by the officer pursuant to law,~~ the attorney general or state ~~staff~~ judge advocate, upon the request of the adjutant general, shall defend the member ~~of the military forces of the state~~ against whom the suit or proceeding has been instituted. The costs of the defense shall be paid out of any funds in the state treasury not otherwise appropriated. Before the suit or proceeding is filed or maintained against the ~~officer or enlisted person~~ member, the plaintiff must give security, to be approved by the court in a sum not less than one hundred dollars to secure the costs. If the plaintiff fails to recover judgment, the costs shall be taxed and judgment rendered against the plaintiff and the plaintiff's sureties. ~~When troops~~ members of the military forces of the state are called into active state service active duty by the governor under martial law or ~~as aid to the~~ assist civil authorities, in addition to the judge advocate's other duties, any judge advocate on duty with those troops may be appointed by the attorney general as an assistant attorney general, without pay for the judge advocate's services for acting in that capacity.

Sec. 20. Section 29A.54, Code 2001, is amended to read as follows:

29A.54 SENIOR COMMANDER ALLOWANCES.

A fund shall be established from an annual appropriation of funds to be used by senior commanders as an expense allowance to defer expenses incurred in conducting command functions or escorting military guests while acting in their official capacity as commander. Appropriations to the fund shall be made at the beginning of each fiscal year in the amount of ~~four~~ seven hundred fifty dollars for each federally recognized general officer of the army national guard and the air national guard. The adjutant general of Iowa shall have custodial and administrative responsibility for the fund and shall prescribe regulations requiring an itemized statement of expenditures from the fund. The fund shall not be used to purchase an alcoholic beverage or beer.

Sec. 21. Section 29A.74, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Except as otherwise provided in this chapter ~~no~~ an agency created by a power of attorney in writing given by a principal who is at the time of execution, or who after executing such power of attorney becomes, ~~either~~ a member of the national guard or the armed forces of the United

States, or a person serving as a merchant seaman outside the limits of the United States included within the fifty states and the District of Columbia, or a person outside ~~said those~~ limits by permission, assignment or direction of any department, ~~in connection with any activity pertaining to or connected with the prosecution of any war in which the United States is then engaged,~~ shall not be revoked or terminated by the death of the principal, as to the agent or other person who, without actual knowledge or actual notice of the death of the principal, shall have acted or shall act, in good faith, under or in reliance upon such power of attorney or agency, and any action so taken, unless otherwise invalid or unenforceable, shall be binding on the heirs, devisees, legatees, or personal representatives of the principal.

Sec. 22. Section 29A.9, Code Supplement 2001, is repealed.

Sec. 23. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION II IOWA NATIONAL GUARD CIVIL RELIEF

Sec. 24. NEW SECTION. 29A.90 DEFINITIONS.

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

1. "Dependent" means the spouse and children of a service member or any other person dependent upon the service member for support.
2. "Interest" includes service charges, renewal charges, fees, or any other charges in respect to any obligation or liability.
3. "Military service" means full-time active state service or state active duty, as defined in section 29A.1, for a period of at least ninety consecutive days, commencing on or after the effective date³ of this Act.
4. "Service member" means a member of the military forces of the state performing military service.

Sec. 25. NEW SECTION. 29A.91 APPLICABILITY.

1. This division shall apply to all service members on military orders who are unable to perform, continue, or complete civil obligations due to military service.
2. This division does not apply to military duty performed under orders issued pursuant to 10 U.S.C.
3. Proper application of this division shall suspend or postpone actions upon those obligations until thirty days after discharge from military service.

Sec. 26. NEW SECTION. 29A.92 REOPENING DEFAULT JUDGMENTS.

1. A default judgment rendered in any civil action against a service member during a period of military service or within thirty days after termination of military service may be set aside under the following circumstances:
 - a. It appears that the service member was prejudiced by reason of military service in making a defense to the action.
 - b. Application by the service member or the service member's legal representative is made to the court rendering the judgment not later than thirty days after the termination of military service.
 - c. The application provides enough facts that it appears that the service member has a meritorious or legal defense to the action or some part of the action.
2. Vacating, setting aside, or reversing a judgment because of any of the provisions of this chapter shall not impair any right or title acquired by a bona fide purchaser for value under the judgment.

³ See chapter 1175, §78, 102 herein

Sec. 27. NEW SECTION. 29A.93 STAY OF PROCEEDINGS.

1. If at any point during an action or proceeding it appears that a plaintiff or defendant is a service member and may be adversely affected by military service in the conduct of the proceedings, the court may, on its own motion, stay the proceedings.

2. The court shall stay the proceedings if the service member or another person on the service member's behalf makes a request in writing to the court, unless the court determines on the record that the ability of the plaintiff to pursue the action or the defendant to conduct a defense, is not materially affected by reason of military service.

Sec. 28. NEW SECTION. 29A.94 FINES AND PENALTIES ON CONTRACTS.

1. If compliance with the terms of a contract is stayed pursuant to this division, a fine or penalty shall not accrue by reason of failure to comply with the terms of the contract during the period of the stay.

2. If a service member has not obtained a stay, and a fine or penalty is imposed for nonperformance of an obligation, a court may relieve enforcement if the service member was in military service when the penalty was incurred and the service member's ability to pay or perform was materially impaired.

Sec. 29. NEW SECTION. 29A.95 EXERCISE OF RIGHTS NOT TO AFFECT FUTURE FINANCIAL TRANSACTIONS.

An application by a service member in military service for, or receipt of, a stay, postponement, or suspension under the provisions of this division in the payment of any fine, penalty, insurance premium, or other civil obligation or liability shall not be used as the basis for any of the following:

1. A determination by any lender or other person that the service member is unable to pay any civil obligation or liability in accordance with its terms.

2. With respect to a credit transaction between a creditor and a service member:

a. A denial or revocation of credit by the creditor.

b. A change by the creditor in the terms of an existing credit arrangement.

c. A refusal by the creditor to grant credit to the service member in substantially the amount or on substantially the terms requested.

d. An adverse report relating to the creditworthiness of the service member by or to any person or entity engaged in the practice of assembling or evaluating consumer credit information.

Sec. 30. NEW SECTION. 29A.96 STAY OF EXECUTION OF JUDGMENT.

Unless the court determines on the record that the ability of a service member to comply with a judgment or order entered or sought is not materially affected by reason of military service, the court shall, on its own motion, or upon application to it by the service member or another person on the service member's behalf, do the following:

1. Stay the execution of a judgment or order entered against the service member, as provided in this chapter.

2. Vacate or stay an attachment or garnishment of property, money, or debts in the hands of another, whether before or after judgment as provided in this chapter.

Sec. 31. NEW SECTION. 29A.97 DURATION OF STAYS.

1. A stay of an action, proceeding, attachment, or execution, ordered by a court under the provisions of this division, may be ordered for the period of military service plus thirty days after its termination or any part of that time period.

2. Where the service member in military service is a codefendant with others, the plaintiff may, with the permission of the court, proceed against the others.

Sec. 32. NEW SECTION. 29A.98 STATUTES OF LIMITATIONS AFFECTED BY MILITARY SERVICE.

The period of military service shall not be included in computing any period limited by law,

rule, or order for the bringing of any action or proceeding in any court, board, bureau, commission, department, or other agency of government by or against any service member or by or against the service member's heirs, executors, administrators, or assigns, whether the cause of action or the right or privilege to institute the action or proceeding has accrued prior to or during the period of military service.

Sec. 33. NEW SECTION. 29A.99 MAXIMUM RATE OF INTEREST.

An obligation or liability bearing interest at a rate in excess of six percent per year incurred before entry into military service by a service member shall not, during any part of the period of military service, bear interest at a rate in excess of six percent per year unless, in the opinion of the court and upon application to the court by the obligee, the ability of the service member to pay interest upon the obligation or liability at a rate in excess of six percent per year is not materially affected by reason of the member's service. The court may make any order in the action that, in its opinion, is just.

Sec. 34. NEW SECTION. 29A.100 DEPENDENT BENEFITS.

Dependents of a service member are entitled to the benefits accorded to service members under the provisions of sections 29A.101 through 29A.105. Dependents may obtain the benefits upon application to a court, unless, in the opinion of the court, the ability of the dependents to comply with the terms of the obligation, contract, lease, or bailment has not been materially impaired by reason of the military service of the service member of the dependents.

Sec. 35. NEW SECTION. 29A.101 TERMINATION OF LEASE OR RENTAL AGREEMENT — EXCEPTIONS.

1. A landlord shall not terminate the lease or rental agreement of a service member or the service member's dependents for nonpayment of rent from any premises used as a dwelling by the service member or dependents during the period of military service if the rent on the premises occupied by the service member or dependents is less than one thousand two hundred dollars per month. However, a court may allow an eviction or the recovery of property pursuant to chapter 646 or 648.

2. In any action affecting the right of possession, the court may, on its own motion, stay the proceedings for not longer than three months, or make any order the court determines to be reasonable and just under the circumstances, unless the court finds that the ability of the service member to pay the agreed rent is not materially affected by reason of military service.

3. When a stay is granted or other order is made by the court, the owner of the premises shall be entitled, upon application, to relief with respect to the premises similar to that granted service members in military service in sections 29A.102 through 29A.104 to the extent and for any period as the court determines to be just and reasonable under the circumstances.

4. A person who knowingly takes part in any eviction or distress otherwise than as provided in subsection 1, or attempts to do so, commits a simple misdemeanor.

5. The governor may order an allotment of the pay of a service member in military service in reasonable proportion to discharge the rent of premises occupied for dwelling purposes by any dependents of the service member.

Sec. 36. NEW SECTION. 29A.102 INSTALLMENT CONTRACTS.

1. The creditor of a service member who, prior to entry into military service, has entered into an installment contract for the purchase of real or personal property shall not terminate the contract or repossess the property for nonpayment or for any breach occurring during military service without an order from a court of competent jurisdiction.

2. The court, upon application to it under this section, shall, unless the court finds on the record that the ability of the service member to comply with the terms of the contract is not materially affected by reason of military service, do one or more of the following:

a. Order repayment of any prior installments or deposits as a condition of terminating the contract and resuming possession of the property.

b. Order a stay of the proceedings on its own motion, or on motion by the service member or another person on behalf of the service member.

c. Make any other disposition of the case it considers to be equitable to conserve the interests of all parties.

3. A person who knowingly repossesses property which is the subject of this section, other than as provided in subsection 1, commits a simple misdemeanor.

Sec. 37. NEW SECTION. 29A.103 MORTGAGE FORECLOSURES.

1. The creditor of a service member who, prior to entry into military service, has entered into a mortgage contract with the service member for the purchase of real or personal property shall not foreclose on the mortgage or repossess the property for nonpayment or for any breach occurring during military service without an order from a court of competent jurisdiction.

2. The court, upon application to it under this section, shall, unless the court finds on the record that the ability of the service member to comply with the terms of the mortgage is not materially affected by reason of military service, do one or more of the following:

a. Order repayment of any prior installments or deposits as a condition of terminating the contract and resuming possession of the property.

b. Order a stay of the proceedings on its own motion, or on motion by the service member or another person on behalf of the service member.

c. Make any other disposition of the case as it considers to be equitable to conserve the interests of all parties.

3. In order to come within the provisions of this section, the service member must establish all of the following:

a. That relief is sought on an obligation secured by a mortgage, trust deed, or other security in the nature of a mortgage on either real or personal property.

b. That the obligation originated prior to the service member's entry into military service.

c. That the property was owned by the service member prior to the commencement of military service.

d. That the property is owned by the service member at the time relief is sought.

4. A person who knowingly forecloses on property that is the subject of this section, other than as provided in subsection 1, commits a simple misdemeanor.

Sec. 38. NEW SECTION. 29A.104 APPLICATION FOR RELIEF.

1. A service member may, at any time during military service or within thirty days after discharge or termination of military service, apply to a court for relief in respect of any obligation or liability incurred by the service member prior to military service.

2. The court, after appropriate notice and hearing, unless in its opinion the ability of the service member to comply with the terms of the obligation or liability has not been materially affected by reason of military service, shall grant the following relief:

a. In the case of an obligation payable under its terms in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, a stay of the enforcement of the obligation during the applicant's period of military service and, from the date of termination of the period of military service or from the date of application if made after termination of military service, for a period equal to the period of the remaining life of the installment contract or other instrument plus a period of time equal to the period of military service of the applicant, or any part of the combined period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, in equal installments during the combined period at the rate of interest on the unpaid balance as is prescribed in the contract, or other instrument evidencing the obligation, for installments paid when due, and subject to any other terms as the court may consider just.

b. In the case of any other obligation or liability, a stay of the enforcement during the appli-

cant's period of military service and, from the date of termination of the period of military service or from the date of application if made after termination of the period of military service, for a period of time equal to the period of military service of the applicant or any part of that period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of military service or from the date of application, in equal periodic installments during the extended period at the rate of interest prescribed for the obligation or liability, if paid when due, and subject to other terms the court considers to be reasonable and just.

3. When any court has granted a stay as provided in this section, a fine or penalty shall not accrue for failure to comply with the terms or conditions of the obligation or liability for which the stay was granted during the period the terms and conditions of the stay are complied with.

Sec. 39. NEW SECTION. 29A.105 PROVISIONS APPLY NOTWITHSTANDING CONTRARY CODE PROVISIONS.

Sections 29A.90 through 29A.104 apply notwithstanding any contrary provision of state law, which may include but is not limited to Titles XIII, XIV, and XV.

Sec. 40. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION III MILITARY JUSTICE

Sec. 41. Section 29B.1, Code 2001, is amended to read as follows:

29B.1 PERSONS SUBJECT TO CODE.

This chapter applies to all members of the state military forces, while not in federal service. As used in this chapter, unless the context otherwise requires, "state military forces" means the national guard of the state of Iowa as defined in 32 U.S.C. § 101, (3, 4, 6) (1981) and any other military force organized under state law when the national guard or other military force is not in a status subjecting it to jurisdiction under 10 U.S.C. ch. 47 (1981) has the same meaning as in section 29A.6, and "code" means this chapter, which may be cited as the "Iowa Code of Military Justice".

Sec. 42. Section 29B.13, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Under ~~such~~ regulations as may be prescribed under this code a person subject to this code who is on active state service or state active duty who is accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

Sec. 43. Section 29B.22, unnumbered paragraphs 1 and 2, Code 2001, are amended by striking the paragraphs and inserting in lieu thereof the following:

A judge advocate in the state military forces shall be a commissioned officer who is a member of the bar of the state. However, a judge advocate serving in the military forces of the state on the effective date of this division of this Act who is not a member of the bar of the state shall not be required to become a member of the bar of the state to maintain military membership as a judge advocate. A judge advocate shall be either a federally recognized judge advocate or appointed as a judge advocate in the state military forces by the adjutant general.

The adjutant general shall designate a staff judge advocate for the army national guard and the air national guard. The adjutant general may appoint the number of judge advocates of the state military forces as the adjutant general considers necessary to perform state active duty to supplement or replace national guard judge advocates in emergencies or when the national guard judge advocates are in federal service.

Sec. 44. Section 29B.27, unnumbered paragraph 2, Code 2001, is amended to read as follows:

A military judge must be a commissioned officer of the state armed forces or a retired officer of the reserve components of the armed forces of the United States, a member of the bar of a federal court or a member of the bar of the highest court of the state, and certified to be qualified for the duty by the ~~judge advocate of the armed forces or the state appropriate staff~~ judge advocate ~~of the state force concerned~~. The state judge advocate ~~responsible for certifying the military judge~~ may recommend to the adjutant general that the adjutant general order to active duty retired personnel of the ~~national guard or the~~ United States armed forces who are qualified to act as military judges.

Sec. 45. Section 29B.28, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Trial counsel or defense counsel detailed for a general court-martial must be a person who is a member of the bar of the highest court of the state, ~~or a member of the bar of a federal court~~ and certified as competent for the duty by the state ~~staff~~ judge advocate.

Sec. 46. Section 29B.35, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Before directing the trial of any charge by general court-martial, the convening authority shall refer it ~~the charge~~ to the state ~~appropriate staff~~ judge advocate ~~of the state force concerned~~ for consideration and advice. The convening authority may not refer a charge to a general court-martial for trial unless the authority has found that the charge alleges an offense under this code and is warranted by evidence indicated in the report of the investigation.

Sec. 47. Section 29B.62, Code 2001, is amended to read as follows:

29B.62 SAME — GENERAL COURT-MARTIAL RECORDS.

The convening authority shall refer the record of each general court-martial to the state ~~appropriate staff~~ judge advocate ~~of the state force concerned~~, who shall submit a written opinion thereon to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction.

Sec. 48. Section 29B.65, subsections 2, 4, 5, 6, and 7, Code 2001, are amended to read as follows:

2. In all other cases not covered by subsection 1 ~~of this section~~, if the sentence of a special court-martial as approved by the convening authority includes a bad-conduct discharge, dishonorable discharge, dismissal, or confinement, whether or not suspended, the entire record shall be sent to the appropriate staff judge advocate of the state force concerned to be reviewed in the same manner as a record of trial by general court-martial. ~~The record and the opinion of the staff judge advocate or legal officer shall then be sent to the state judge advocate for review.~~

4. The state ~~staff~~ judge advocate ~~of the state force concerned~~ shall review the record of trial in each case sent for review as provided under this section. If the final action of the court-martial has resulted in an acquittal of all charges and specifications, the opinion of the state ~~staff~~ judge advocate is limited to questions of jurisdiction.

The state ~~staff~~ judge advocate shall take final action in any case reviewable by the state ~~staff~~ judge advocate.

5. In a case reviewable by the appropriate state ~~staff~~ judge advocate under this section, the state ~~staff~~ judge advocate may act only with respect to the findings and sentence as approved by the convening authority. The state ~~staff~~ judge advocate may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as the state ~~staff~~ judge advocate finds correct in law and fact and determines, on the basis of the entire record, should be approved. In consideration of the record, the state ~~staff~~ judge advocate may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recog-

nizing that the trial court saw and heard the witnesses. If the state staff judge advocate sets aside the findings and sentence, the state staff judge advocate may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If the state staff judge advocate sets aside the findings and sentence and does not order a rehearing, the state staff judge advocate shall order that the charges be dismissed.

6. In a case reviewable by the state staff judge advocate under this section, the state staff judge advocate shall instruct the convening authority to act in accordance with the decision on the review. If the state staff judge advocate has ordered a rehearing but the convening authority finds a rehearing impracticable, the state staff judge advocate may dismiss the charges.

7. The state staff judge advocate may order one or more boards of review each composed of not less than three commissioned officers of the state military forces, each of whom must be a member of the bar of the highest court of the state. Each board of review shall review the record of any trial by court-martial including a sentence to a dishonorable discharge, dismissal or confinement, referred to it by the state staff judge advocate. Boards of review have the same authority on review as the state staff judge advocate has under this section.

Sec. 49. Section 29B.67, Code 2001, is amended to read as follows:

29B.67 REVIEW COUNSEL.

Upon the final review of a sentence of a general court-martial or of a sentence to a dishonorable discharge, dismissal, or confinement, the accused has the right to be represented by counsel before the reviewing authority, and before the appropriate staff judge advocate, ~~and before the appropriate state judge advocate.~~

Upon the request of an accused entitled to be so represented, the state appropriate staff judge advocate shall appoint a lawyer who is a member of the state military forces and who has the qualifications prescribed in section 29B.28, if available, to represent the accused before the reviewing authority, and before the appropriate staff judge advocate, ~~and before the appropriate state judge advocate,~~ in the review of cases specified in this section.

If provided by the accused, an accused entitled to be so represented may be represented by civilian counsel before the reviewing authority, and before the appropriate staff judge advocate ~~and before the appropriate state judge advocate.~~

Sec. 50. Section 29B.116, Code 2001, is amended to read as follows:

29B.116 GENERAL ARTICLE.

Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the state military forces, of which persons subject to this code may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the offense, and shall be punished at the discretion of that court. However, cognizance shall not be taken of, and jurisdiction shall not be extended to, the crimes of murder, manslaughter, sexual abuse, robbery, maiming, ~~sodomy~~, arson, extortion, assault, burglary, or housebreaking, jurisdiction of which is reserved to civil courts.

Sec. 51. Section 29B.129, subsection 1, Code 2001, is amended by striking the subsection.

Sec. 52. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV
EMERGENCY MANAGEMENT DIVISION

Sec. 53. Section 22.7, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 43. The critical asset protection plan or any part of the plan prepared pursuant to section 29C.8 and any information held by the emergency management division that was supplied to the division by a public or private agency or organization and used in the

development of the critical asset protection plan to include, but not be limited to, surveys, lists, maps, or photographs. However, the administrator shall make the list of assets available for examination by any person. A person wishing to examine the list of assets shall make a written request to the administrator on a form approved by the administrator. The list of assets may be viewed at the division's offices during normal working hours. The list of assets shall not be copied in any manner. Communications and asset information not required by law, rule, or procedure that are provided to the administrator by persons outside of government and for which the administrator has signed a nondisclosure agreement are exempt from public disclosures. The emergency management division may provide all or part of the critical asset plan to federal, state, or local governmental agencies which have emergency planning or response functions if the administrator is satisfied that the need to know and intended use are reasonable. An agency receiving critical asset protection plan information from the division shall not disseminate the information without prior approval of the administrator.

Sec. 54. Section 29C.8, subsection 3, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Prepare a critical asset protection plan that contains an inventory of infrastructure, facilities, systems, other critical assets, and symbolic landmarks, an assessment of the criticality, vulnerability, and level of threat to the assets, and information pertaining to the mobilization, deployment, and tactical operations involved in responding to or protecting the assets.

Sec. 55. NEW SECTION. 29C.22 STATEWIDE MUTUAL AID COMPACT.

This statewide mutual aid compact is entered into with all other counties, cities, and other political subdivisions that enter into this compact in substantially the following form:

ARTICLE I PURPOSE AND AUTHORITIES

This compact is made and entered into by and between the participating counties, cities, and political subdivisions which enact this compact. For the purposes of this agreement, the term "participating governments" means counties, cities, townships, and other political subdivisions of the state which have, through ordinance or resolution of the governing body, acted to adopt this compact.

The purpose of this compact is to provide for mutual assistance between the participating governments entering into this compact in managing any emergency or disaster that is declared in accordance with a countywide comprehensive emergency operations plan or by the governor, whether arising from natural disaster, technological hazard, man-made disaster, community disorder, insurgency, terrorism, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by participating governments during emergencies, such actions occurring outside actual declared emergency periods.

ARTICLE II GENERAL IMPLEMENTATION

Each participating government entering into this compact recognizes many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each participating government further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to the emergency. This is because few, if any, individual governments have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective use of resources of the participating governments, including any resources on hand or available from any source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by the governor or any participating government, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the participating government in the compact, the legally designated official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate intrastate mutual aid plans and procedures necessary to implement this compact.

ARTICLE III PARTICIPATING GOVERNMENT RESPONSIBILITIES

1. It shall be the responsibility of each participating government to formulate procedural plans and programs for intrastate cooperation in the performance of the responsibilities listed in this article. In formulating the plans, and in carrying them out, the participating governments, insofar as practical, shall:

a. Review individual hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the participating governments might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, civil disorders, insurgency, terrorism, or enemy attack.

b. Review the participating governments' individual emergency plans and develop a plan that will determine the mechanism for the intrastate management and provision of assistance concerning any potential emergency.

c. Develop intrastate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

d. Assist in warning communities adjacent to or crossing the participating governments' boundaries.

e. Protect and ensure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.

f. Inventory and set procedures for the intrastate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.

g. Provide, to the extent authorized by law, for temporary suspension of any ordinances that restrict the implementation of the above responsibilities.

2. The authorized representative of a participating government may request assistance of another participating government by contacting the authorized representative of that participating government. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide all of the following:

a. A description of the emergency service function for which assistance is needed, such as but not limited to fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

b. The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time that the personnel, equipment, materials, and supplies will be needed.

c. The specific place and time for staging of the assisting participating government's response and a point of contact at that location.

3. The authorized representative of a participating government may initiate a request by contacting the emergency management division of the state department of public defense. When a request is received by the division, the division shall directly contact other participating governments to coordinate the provision of mutual aid.

4. Frequent consultation shall occur between officials who have been assigned emergency management responsibilities and other appropriate representatives of the participating governments with affected jurisdictions and state government, with free exchange of information, plans, and resource records relating to emergency capabilities.

ARTICLE IV LIMITATIONS

Any participating government requested to render mutual aid or conduct exercises and training for mutual aid shall take the necessary action to provide and make available the resources covered by this compact in accordance with the terms of the compact. However, it is understood that the participating government rendering aid may withhold resources to the extent necessary to provide reasonable protection for the participating government. Each participating government shall afford to the emergency forces of any other participating government, while operating within its jurisdictional limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving participating government, duties, rights, and privileges as are afforded forces of the participating government in which the emergency forces are performing emergency services. Emergency forces shall continue under the command and control of their regular leaders, but the organizational units shall come under the operational control of the emergency services authorities of the participating government receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor or by competent authority of the participating government that is to receive assistance or commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving jurisdiction, whichever is longer.

ARTICLE V LICENSES AND PERMITS

If a person holds a license, certificate, or other permit issued by any participating government to this compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when the assistance is requested by another participating government, the person shall be deemed licensed, certified, or permitted by the participating government requesting assistance to render aid involving the skill to meet a declared emergency or disaster, subject to the limitations and conditions as the governor may prescribe by executive order or otherwise.

ARTICLE VI LIABILITY

Officers or employees of a participating government rendering aid in another participating government jurisdiction pursuant to this compact shall be considered agents of the requesting participating government for tort liability and immunity purposes and a participating government or its officers or employees rendering aid in another jurisdiction pursuant to this compact shall not be liable on account of any act or omission in good faith on the part of the forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection with the aid. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

ARTICLE VII SUPPLEMENTARY AGREEMENTS

Because it is probable that the pattern and detail of the machinery for mutual aid among two

or more participating governments may differ from that among other participating governments, this compact contains elements of a broad base common to all political subdivisions, and this compact shall not preclude any political subdivision from entering into supplementary agreements with another political subdivision or affect any other agreements already in force between political subdivisions. Supplementary agreements may include, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

ARTICLE VIII WORKERS' COMPENSATION

Each participating government shall provide for the payment of workers' compensation and death benefits to injured members of the emergency forces of that participating government and representatives of deceased members of the emergency forces in case the members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

ARTICLE IX REIMBURSEMENT

Any participating government rendering aid in another jurisdiction pursuant to this compact shall be reimbursed by the participating government receiving the emergency aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with the requests. However, an aiding political subdivision may assume in whole or in part the loss, damage, expense, or other cost, or may loan the equipment or donate the services to the receiving participating government without charge or cost, and any two or more participating governments may enter into supplementary agreements establishing a different allocation of costs among the participating governments. Article VIII expenses shall not be reimbursable under this provision.

ARTICLE X EVACUATION AND SHELTERING

Plans for the orderly evacuation and reception of portions of the civilian population as the result of any emergency or disaster shall be worked out and maintained between the participating governments and the emergency management or services directors of the various jurisdictions where any type of incident requiring evacuations might occur. The plans shall be put into effect by request of the participating government from which evacuees come and shall include the manner of transporting the evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of the evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. The plans shall provide that the participating government receiving evacuees and the participating government from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for the evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. The expenditures shall be reimbursed as agreed by the participating government from which the evacuees come. After the termination of the emergency or disaster, the participating government from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

ARTICLE XI
IMPLEMENTATION

1. This compact shall become operative immediately upon its adoption by ordinance or resolution by the governing bodies of any two political subdivisions. Thereafter, this compact shall become effective as to any other political subdivision upon its adoption by ordinance or resolution of the governing body of the political subdivision.

2. Any participating government may withdraw from this compact by adopting an ordinance or resolution repealing the same, but a withdrawal shall not take effect until thirty days after the governing body of the withdrawing participating government has given notice in writing of the withdrawal to the administrator of the emergency management division who shall notify all other participating governments. The action shall not relieve the withdrawing political subdivision from obligations assumed under this compact prior to the effective date of withdrawal.

3. Duly authenticated copies of this compact and any supplementary agreements as may be entered into shall be deposited, at the time of their approval, with the administrator of the emergency management division who shall notify all participating governments and other appropriate agencies of state government.

ARTICLE XII
VALIDITY

This compact shall be construed to effectuate the purposes stated in article I. If any provision of this compact is declared unconstitutional, or the applicability of the compact to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability of this compact to other persons and circumstances shall not be affected.

Sec. 56. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION V
IOWA TECHNOLOGY CENTER

Sec. 57. Section 18.6, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 17. This section does not apply to Iowa technology center contracts in support of activities performed for another governmental entity, either state or federal. The Iowa technology center is an entity created by a chapter 28E agreement entered into by the department of public defense.

Sec. 58. Section 23A.2, subsection 10, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. p. The provision of goods or services by the Iowa technology center as a part of an intergovernmental solution involving the federal government or a state agency. The Iowa technology center is an entity created by a chapter 28E agreement entered into by the department of public defense.

Approved April 22, 2002

CHAPTER 1118

**SCHOOL FINANCE — USE OF
PHYSICAL PLANT AND EQUIPMENT LEVY MONEYS**

S.F. 2228

AN ACT relating to utilization of school district moneys for physical plant and equipment levy purposes.

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

Section 1. Section 298.3, subsection 3, Code 2001, is amended to read as follows:

3. The purchase of buildings and the purchase, ~~lease, or lease-purchase~~ of a single unit of equipment or a technology system exceeding ~~one thousand~~ five hundred dollars in value.

Approved April 22, 2002

CHAPTER 1119

SUBSTANTIVE CODE CORRECTIONS

S.F. 2275

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

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

DIVISION I

Section 1. Section 7A.20, subsection 1, Code Supplement 2001, is amended by striking the subsection.

Sec. 2. Section 9E.15, Code Supplement 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)
.....
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)

.....

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)

.....

Title (and Rank)

[My commission expires: —.]

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)

.....

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)

.....

Title (and Rank)

[My commission expires: —.]

Sec. 3. Section 12.72, subsection 4, paragraph d, Code Supplement 2001, is amended to read as follows:

d. To assure the continued solvency of any bonds secured by the bond reserve fund, provision is made in paragraph "a" for the accumulation in each bond reserve fund of an amount equal to the bond reserve fund requirement for the fund. In order further to assure mainte-

nance of the bond reserve funds, the treasurer shall, on or before January 1 of each calendar year, make and deliver to the governor the treasurer's certificate stating the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Within thirty days after the beginning of the session of the general assembly next following the delivery of the certificate, the governor shall submit to both houses printed copies of a budget including the sum, if any, required to restore each bond reserve fund to the bond reserve fund requirement for that fund. Any sums appropriated by the general assembly and paid to the treasurer pursuant to this subsection shall be deposited by the ~~authority~~ treasurer in the applicable bond reserve fund.

Sec. 4. Section 12.82, subsection 4, paragraph d, Code Supplement 2001, is amended to read as follows:

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

Sec. 5. Section 15.333, subsections 1 and 2, Code Supplement 2001, are 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 receive a refund of 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.

2. 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 depart-

ment of economic development is attached to the taxpayer's tax return for the tax year ~~during~~ for 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 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.⁴

Sec. 6. NEW SECTION. 15E.1 DEFINITION.

As used in this chapter, unless the context otherwise requires, "department" means the Iowa department of economic development.

Sec. 7. Section 15E.193C, subsection 7, paragraph c, Code Supplement 2001, is amended to read as follows:

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 paragraph 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 paragraph 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.

Sec. 8. Section 84A.4, subsection 3, Code Supplement 2001, is amended to read as follows:

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. 9. Section 85A.20, Code Supplement 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, 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 the physicians' duties.

⁴ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1001, §47, 49, 52 herein

Sec. 10. Section 88.5, subsection 7, Code Supplement 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~~ subsection, any employer seeking relief under this provision must file an application 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. 11. Section 123.14, subsection 2, Code 2001, is amended to read as follows:

2. The other law enforcement divisions of the department of public safety, the county attorney, the county sheriff and the sheriff's deputies, and the police department of every city, and the alcoholic beverages division of the department of inspections and appeals commerce, shall be supplementary aids to the division of beer and liquor law enforcement. Any neglect, misfeasance, or malfeasance shown by any peace officer included in this section shall be sufficient cause for the peace officer's removal as provided by law. Nothing in this section shall be construed to affect the duties and responsibilities of any county attorney or peace officer with respect to law enforcement.

Sec. 12. Section 124C.1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

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

Sec. 13. Section 135.63, subsection 4, Code 2001, is amended by striking the subsection.⁵

Sec. 14. Section 135.78, Code 2001, is amended to read as follows:

135.78 DATA TO BE COMPILED.

~~Immediately upon July 1, 1978, or as soon thereafter as reasonably possible, the~~ The department shall ~~begin to~~ compile all relevant financial and utilization data in order to have available the statistical information necessary to properly monitor hospital and health care facility charges and costs. Such data shall include necessary operating expenses, appropriate expenses incurred for rendering services to patients who cannot or do not pay, all properly incurred interest charges, and reasonable depreciation expenses based on the expected useful life of the property and equipment involved. The department shall also obtain from each hospital and health care facility a current rate schedule as well as any subsequent amendments or modifications of that schedule as it may require. In collection of the data required by sections 135.74 to 135.78, the department and other state agencies shall co-ordinate their reporting requirements.

Sec. 15. Section 154.6, Code Supplement 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 licensee shall submit~~ accompanied by evidence of the licensee's attendance of continuing education programs in this field.

Sec. 16. Section 154A.9, Code Supplement 2001, is amended to read as follows:

154A.9 APPLICATIONS.

Applications for licensure or for a temporary permit shall be on forms prescribed and furnished by the board and shall not require that a ~~recent~~ photograph of the applicant be attached

⁵ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §246, 262 herein

to the application form. An applicant shall not be ineligible for certification because of age, citizenship, sex, race, religion, marital status or national origin although the application may require citizenship information. The board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of fitting or selection and sale of hearing aids. Character references may be required, but shall not be obtained from licensed hearing aid dispensers.

Sec. 17. Section 154A.20, subsection 3, Code Supplement 2001, is amended to read as follows:

3. Whenever any of the following conditions are found to exist either from observations by the licensed hearing aid dispenser or person holding a temporary permit or on the basis of information furnished by a prospective hearing aid user, the hearing aid dispenser or person holding a temporary permit shall, prior to fitting and selling a hearing aid to any individual, suggest to that individual in writing that the individual's best interests would be served if the individual would consult a licensed physician specializing in diseases of the ear, or if no such licensed physician is available in the community, then to a duly licensed physician:

- a. Visible congenital or traumatic deformity of the ear.
- b. History of, or active drainage from the ear within the previous ninety days.
- c. History of sudden or rapidly progressive hearing loss within the previous ninety days.
- d. Acute or chronic dizziness.
- e. Unilateral hearing loss of sudden or recent onset within the previous ninety days.
- f. Significant air-bone gap (greater than or equal to 15dB ANSI 500, 1000 and 2000 Hz. average).
- g. Obstruction of the ear canal, either by structures of undetermined origin, such as foreign bodies, impacted cerumen, redness, swelling, or tenderness from localized infections of the otherwise normal ear canal.

Sec. 18. Section 154A.20, subsection 5, Code Supplement 2001, is amended to read as follows:

5. No hearing aid shall be sold by any individual licensed under this bill chapter to a person twelve years of age or younger, unless within the preceding six months a recommendation for a hearing aid has been made by a physician specializing in otolaryngology. A replacement of an identical hearing aid within one year shall be an exception to this requirement.

Sec. 19. Section 154A.23, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

Any person wishing to make a complaint against a licensee or holder of a temporary permit shall file a written statement with the board within twelve months from the date of the action upon which the complaint is based. If the board determines that the complaint alleges facts which, if proven, would be cause for the suspension or revocation of the license of the licensee or the permit of the holder of a temporary permit, it shall make an order fixing a time and place for a hearing and requiring the licensee or holder of a temporary permit complained against to appear and defend. The order shall contain a copy of the complaint, and the order and copy of the complaint shall be served upon the licensee or holder of a temporary permit at least twenty days before the date set for hearing, either personally or as provided in section 154A.21. Continuance or adjournment of a hearing date may be made for good cause. At the hearing the licensee or holder of a temporary permit may be represented by counsel. The licensee or holder of a temporary permit and the board may take depositions in advance of hearing and after service of the complaint, and either may compel the attendance of witnesses by subpoenas issued by the board. The board shall issue such subpoenas at the request of a licensee or holder of a temporary permit. Either party taking depositions shall give at least five days' written notice to the other party of the time and place of such depositions, and the other party may attend, with counsel, if desired, and cross-examine.

Sec. 20. Section 161B.1, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 21. Section 163.6, subsection 1, paragraph a, Code Supplement 2001, is amended to read as follows:

a. "Department" means the department of agriculture and land stewardship ~~or unless the United States department of agriculture~~ is otherwise specified.

Sec. 22. Section 163.51, subsection 4, paragraph b, Code Supplement 2001, is amended to read as follows:

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 for~~ 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 June 1, 2001.

Sec. 23. Section 165A.4, Code Supplement 2001, is amended to read as follows:
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 directly to a slaughtering establishment, for immediate slaughter. Cattle marked with a letter "C" that are kept at a concentration point ~~must~~ shall be kept separate and apart.

Sec. 24. Section 169A.13, Code Supplement 2001, is amended to read as follows:
169A.13 RENEWAL OF BRAND AND FEE.

Each owner of a brand which is recorded pursuant to section 169A.4 shall renew the brand ~~each fifth year~~ every five years after originally recording the brand and pay a renewal fee. The amount of the renewal fee is twenty-five dollars. 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 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. 25. Section 173.1A, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

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

Sec. 26. Section 175A.2, subsection 4, Code Supplement 2001, is amended to read as follows:

4. Members are not entitled to receive compensation or reimbursement of expenses from the department ~~as otherwise provided~~ notwithstanding anything to the contrary in section 7E.6.

Sec. 27. Section 175A.3, subsection 2, paragraph e, Code Supplement 2001, is amended to read as follows:

e. ~~Approve~~ Propose rules ~~proposed for adoption~~ by the department ~~for adoption~~ pursuant to chapter 17A required for the administration of this chapter.

Sec. 28. Section 216B.4, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The ~~administrator~~ director may accept financial aid from the government of the United States for carrying out rehabilitation and physical restoration of the blind and for providing library services to persons who are blind and persons with physical disabilities.

Sec. 29. Section 225.12, Code 2001, is amended to read as follows:

225.12 VOLUNTARY PUBLIC PATIENT — PHYSICIAN'S REPORT.

A physician filing an information under section 225.10 shall include a written report to the judge, giving such a history of the case as will be likely to aid in the observation, treatment, and hospital care of the person named in the information and describing the same in detail.

Sec. 30. Section 225.30, Code Supplement 2001, is amended to read as follows:

225.30 BLANKS — AUDIT.

The medical faculty of the university of Iowa college of medicine 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. 31. Section 225B.7, subsection 2, Code Supplement 2001, is amended by striking the subsection.

Sec. 32. Section 229.14, subsection 2, paragraph d, Code Supplement 2001, is amended to read as follows:

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 copies of relevant court orders by the former treatment provider.

Sec. 33. Section 233.1, subsection 2, paragraph a, Code Supplement 2001, is amended to read as follows:

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.

Sec. 34. Section 233.6, subsection 2, Code Supplement 2001, is amended to read as follows:

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~~ this chapter.

Sec. 35. Section 235B.16, subsection 5, paragraph e, Code Supplement 2001, is amended to read as follows:

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 and section 232.69 through completion of a two-hour training program, if the training program curriculum 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.

Sec. 36. Section 236.3, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

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~~ plaintiff. 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~~ for the filing of the petition 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. 37. Section 263A.2, Code 2001, is amended to read as follows:

~~263A.2 LEGISLATIVE APPROVAL BEFORE ACTING HEREUNDER~~ AUTHORIZATION OF GENERAL ASSEMBLY AND GOVERNOR.

Subject to and in accordance with the provisions of this chapter, the state board of regents after authorization by a constitutional majority of the general assembly and approval by the governor may undertake and carry out any project as defined in this chapter at the state university of Iowa. The state board of regents is authorized to operate, control, maintain, and manage buildings and facilities and additions to such buildings and facilities at said institution. All contracts for the construction, reconstruction, completion, equipment, improvement, repair, or remodeling of any buildings, additions, or facilities shall be let in accordance with the provisions of section 262.34. The title to all real estate acquired under the provisions of this chapter and the improvements erected thereon shall be taken and held in the name of the state of Iowa.

Sec. 38. Section 294A.14, unnumbered paragraph 12, Code Supplement 2001, is amended to read as follows:

For purposes of this section, "comprehensive school transformation" means activities which focus on the improvement of student achievement and the attainment of student achievement goals under section 256.7, subsection 21, and section 280.12. A comprehensive school transformation plan submitted by a school district shall demonstrate the manner in which the components of the plan are integrated with a school's student achievement goals. Components of the plan may include, but are not limited to, providing salary increases to teachers who implement site-based shared decision making, building-based goal-oriented compensation mechanism, or approved innovative educational programs; who focus on student outcomes; who direct accountability for student achievement or accountability for organizational success; and who work to foster relationships between a school and businesses or public agencies which provide health and social services.

Sec. 39. Section 303.2, subsection 2, paragraph k, Code Supplement 2001, is amended to read as follows:

k. Administer, preserve, and interpret the battle flag collection assembled by the state in consultation and coordination with the ~~department~~ commission 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.

Sec. 40. Section 309.1, Code 2001, is amended by adding the following new subsections: NEW SUBSECTION. 1A. "Bridge" includes any structure including supports, erected over a depression or an obstruction, such as water, a highway, or railway. A bridge has a track or passageway for carrying traffic or other moving loads and has an opening measured along the

center of the roadway of more than twenty feet. The measurement shall be between the inside faces of abutments, the inside faces of the exterior walls of multiple box culverts, the spring lines of arches, and the horizontal measurement of circular or elliptical structures.

a. The length of a bridge is the overall measurement from back to back of backwalls and abutments measured along the center of the roadway.

b. Multiple pipes, where the distance between openings is less than half the smaller contiguous opening, may be included as a bridge, provided the pipes meet the other definitional requirements for bridges in this subsection.

NEW SUBSECTION. 1B. "Culvert" includes any structure not classified as a bridge which provides an opening under any roadway, except that this term does not include tile crossing the road, or intakes thereto, where the tile are a part of a tile line or system designed to aid subsurface drainage.

Sec. 41. Section 309.41, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Contracts not embraced within the provisions of section 309.40 ~~or 309.40A~~ shall be either advertised and let at a public letting; or, where the cost does not exceed the engineer's estimate, let through informal bid procedure by contacting at least three qualified bidders prior to letting the contract. The informal bids received together with a statement setting forth the reasons for use of the informal procedure and bid acceptance shall be entered in the minutes of the board of supervisors meeting at which such action was taken.

Sec. 42. Section 321.34, subsection 12A, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

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:

Sec. 43. Section 321.45, subsection 4, Code Supplement 2001, is amended to read as follows:

4. After acquiring a used mobile home or manufactured home to be titled in Iowa, a manufacturer or mobile home dealer retailer, as defined in section 322B.2, shall within thirty days apply for and obtain from the county treasurer of the ~~dealer's~~ retailer's county of residence a new certificate of title for the mobile home or manufactured home. In the event that there is a prior lien or encumbrance to be released, as required by section 321.50, subsection 4, the thirty-day time period in this subsection does not begin to run until the lien or encumbrance is released.

Sec. 44. Section 321.46, subsection 2, Code Supplement 2001, is amended to read as follows:

2. Upon filing the application for a new registration and a new title, the applicant shall pay a title fee of ten dollars and a registration fee prorated for the remaining unexpired months of the registration year. A manufacturer applying for a certificate of title pursuant to section 322G.12 shall pay a title fee of two dollars. However, a title fee shall not be charged to a manufacturer or mobile home retailer applying for a certificate of title for a used mobile home or manufactured home, titled in Iowa, as required under section 321.45, subsection 4. The county treasurer, if satisfied of the genuineness and regularity of the application, and in the case of a mobile home or manufactured home, that taxes are not owing under chapter 435, and that applicant has complied with all the requirements of this chapter, shall issue a new certificate of title and, except for a mobile home, manufactured home, or a vehicle returned to and accepted by a manufacturer as described in section 322G.12, a registration card to the purchaser or transferee, shall cancel the prior registration for the vehicle, and shall forward the necessary copies to the department on the date of issuance, as prescribed in section 321.24. Mobile homes or manufactured homes titled under chapter 448 that have been subject under section

446.18 to a public bidder sale in a county shall be titled in the county's name, with no fee, and the county treasurer shall issue the title.

Sec. 45. Section 321.49, subsection 3, Code Supplement 2001, is amended to read as follows:

3. A manufactured or mobile home retailer who acquires a used mobile home or manufactured home, titled in Iowa, and who does not apply for and obtain a certificate of title from the county treasurer of the manufactured or mobile home retailer's county of residence within thirty days of the date of acquisition, as required under section 321.45, subsection 4, is subject to a penalty of ten dollars. A certificate of title shall not be issued to the manufactured or mobile home retailer until the penalty is paid.

Sec. 46. Section 321.56, subsection 1, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

The operator of a commercial motor vehicle which is not registered within the state as required pursuant to this chapter or chapter 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~~ if all of the following circumstances apply:

Sec. 47. Section 321.57, subsections 1, 2, 4, and 5, Code Supplement 2001, are amended to read as follows:

1. A ~~manufactured home retailer~~ dealer owning any vehicle of a type otherwise required to be registered under this chapter may operate or move the vehicle upon the highways solely for purposes of transporting, testing, demonstrating, or selling the vehicle without registering the vehicle, upon condition that the vehicle display in the manner prescribed in sections 321.37 and 321.38 a special plate issued to the owner as provided in sections 321.58 to 321.62. Additionally, a new car dealer or a used car dealer may operate or move upon the highways a new or used car or trailer owned by the dealer for either private or business purposes without registering it if the new or used car or trailer is in the dealer's inventory and is continuously offered for sale at retail, and there is displayed on it a special plate issued to the dealer as provided in sections 321.58 to 321.62.

2. In addition, while a service customer is having the customer's own vehicle serviced or repaired by the ~~manufactured home retailer~~ dealer, the service customer of the ~~manufactured home retailer~~ dealer may operate upon the highways a motor vehicle owned by the ~~manufactured home retailer~~ dealer, except a motor truck or truck tractor, upon which there is displayed a special plate issued to the ~~manufactured home retailer~~ dealer, provided all of the requirements of this section are complied with.

4. The provisions of this section and sections 321.58 to 321.62, shall not apply to any vehicles offered for hire, work or service vehicles owned by a transporter or ~~manufactured home retailer~~ dealer.

5. Manufactured or mobile home retailers licensed under chapter 322B may transport and deliver mobile homes or manufactured homes in their inventory upon the highways of this state with a special plate displayed on the mobile home or manufactured home as provided in sections 321.58 to 321.62.

Sec. 48. Section 321.58, Code Supplement 2001, is amended to read as follows:

321.58 APPLICATION.

All ~~manufactured home retailers~~ dealers, transporters, new motor vehicle wholesalers licensed under chapter 322, and manufactured or mobile home retailers licensed under chapter 322B, upon payment of a fee of seventy dollars for two years, one hundred forty dollars for four years, or two hundred ten dollars for six years, may make application to the department upon the appropriate form for a certificate containing a general distinguishing number and for one or more special plates as appropriate to various types of vehicles subject to registration. The applicant shall also submit proof of the applicant's status as a bona fide transporter, new motor vehicle wholesaler licensed under chapter 322, manufactured or mobile home retailer licensed

under chapter 322B, or ~~manufactured home retailer~~ dealer, as reasonably required by the department. Dealers in new vehicles shall furnish satisfactory evidence of a valid franchise with the manufacturer of the vehicles authorizing the dealership.

Sec. 49. Section 321.104, subsection 6, Code Supplement 2001, is amended to read as follows:

6. For a ~~dealer~~ manufacturer or mobile home retailer to sell or transfer a mobile home or manufactured home without delivering to the purchaser or transferee a certificate of title or a manufacturer's or importer's certificate properly assigned to the purchaser, or to transfer a mobile home or manufactured home without disclosing to the purchaser the owner of the mobile home or manufactured home in a manner prescribed by the department pursuant to rules, ~~or to fail to certify within seven days to the proper county treasurer the information required under section 321.45, subsection 4,~~ or to fail to apply for and obtain a certificate of title for a used mobile home or manufactured home, titled in Iowa, acquired by the ~~dealer~~ manufacturer or mobile home retailer within thirty days from the date of acquisition as required under section 321.45, subsection 4.

Sec. 50. Section 321.445, subsection 2, unnumbered paragraph 3, Code Supplement 2001, is amended by striking the unnumbered paragraph.

Sec. 51. Section 336.16, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

A city may withdraw from the 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 favorable vote to withdraw shall be sent by certified mail to the board of library trustees of the library district and the county ~~auditor~~ or city ~~auditor~~ clerk, as appropriate, prior to January 10, and the withdrawal shall be effective on July 1.

Sec. 52. Section 384.84A, subsection 2, unnumbered paragraph 1, Code Supplement 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 ~~is filed~~, 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. 53. Section 422A.2, subsection 4, paragraph f, unnumbered paragraph 2, Code Supplement 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 ~~is filed~~, 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. 54. Section 426.6, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

The agricultural land tax credit allowed each year shall be computed as follows: On or before 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 April 1, certify the amount to the department of revenue and finance.

Sec. 55. Section 427.1, subsection 14, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

A society or organization claiming an exemption under subsection 5, ~~or subsection 8, or 33~~ shall file with the assessor not later than 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. 56. Section 427.1, subsection 16, Code Supplement 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~~ of 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 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~~ chapter 17A, 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. 57. Section 435.27, subsection 1, Code Supplement 2001, is amended to read as follows:

1. A mobile home or manufactured home converted to real estate under section 435.26 may be reconverted to a home as provided in this section when it is moved to a manufactured home community or mobile home park or a manufactured or mobile home retailer's inventory. When the home is located within a manufactured home community or mobile home park, the home shall be taxed pursuant to section 435.22, subsection 1.

Sec. 58. Section 437A.3, subsection 17, paragraph d, Code Supplement 2001, is amended to read as follows:

d. Any property described in section 437A.16 in this state acquired by a person not previously subject to taxation under this chapter.

Sec. 59. Section 453A.42, subsection 14, Code 2001, is amended to read as follows:

14. "Tobacco products" means cigars; little cigars as defined herein; cheroots; stogies; pe-riques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings ~~to~~ of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but shall not include cigarettes as defined in section 453A.1, subsection 3.

Sec. 60. Section 455B.473, subsection 8, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

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~~ A person shall not 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.

Sec. 61. Section 455B.484, subsections 10, 12, and 13, Code Supplement 2001, are amended by striking the subsections.

Sec. 62. Section 476.27, subsection 1, paragraph g, subparagraph (2), Code Supplement 2001, is amended to read as follows:

(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~~ of a railroad corporation, including an abandoned railroad right-of-way that has not otherwise reverted pursuant to chapter 327G.

Sec. 63. Section 483A.7, subsection 3, Code Supplement 2001, is amended to read as follows:

3. A nonresident wild turkey hunter is required to have 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. 64. Section 483A.8, subsections 3 and 5, Code Supplement 2001, are 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 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.

5. A nonresident owning land in this state may apply for one of the first six thousand nonresident deer licenses not limited to antlerless deer, and the provisions of subsection 3 shall apply. However, if a nonresident owning land in this state is unsuccessful in ~~the drawing~~ obtaining one of the first six thousand nonresident deer licenses, 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. 65. Section 513C.5, subsection 2, Code Supplement 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 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.

Sec. 66. Section 513C.10, subsection 2, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

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~~ comprehensive health insurance 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 6, the Iowa ~~individual health benefit reinsurance~~ comprehensive health insurance association board with the approval of the commissioner may increase the value for any basic and standard factor greater than the maximum value.

Sec. 67. Section 513C.11, subsection 1, Code 2001, is amended to read as follows:

1. A self-funded employer-sponsored health benefit plan qualified under the federal Employee Retirement Income Security Act of 1974 may voluntarily elect to participate in the Iowa individual health benefit reinsurance association established in section 513C.10 in accordance with the plan of operation and subject to such terms and conditions adopted by the board of the association established in section 514E.2 to provide portability and continuity to its covered employees and their covered spouses and dependents subject to the same terms and conditions as a participating insurer.

Sec. 68. Section 514A.3, subsection 1, paragraph m, Code Supplement 2001, is amended to read as follows:

m. A provision as follows:

RIGHT TO RETURN POLICY: The insured has the right, within ten days after receipt of this policy, to return it to the company at its home office or branch office or to the agent through whom it was purchased, and if so returned the premium paid will be refunded and the policy will be void from the beginning and the parties shall be in the same position as if a policy had not been issued.

The foregoing provision shall be prominently printed on the first page of the policy or attached to the policy.

The provisions of this paragraph "m" and ~~section 507B.4, subsections 12 and 13~~ shall apply to any insurance policy which is delivered or issued for delivery or renewed in this state on or after July 1, 1978.

Sec. 69. Section 514J.5, subsection 3, Code Supplement 2001, is amended to read as follows:

3. The carrier or organized delivery system has three business days from the date of receipt to contest the commissioner's certification decision. If the commissioner finds that the request for external review is not eligible for certification, the commissioner, within two business days of the date of the request, 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 certification.

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 promptly notify the carrier or organized delivery system in writing of the reasons for upholding the certification.

Sec. 70. Section 514J.7, subsection 1, paragraph b, Code Supplement 2001, is amended to read as follows:

b. Notify in writing 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.

Sec. 71. Section 514J.7, subsection 2, Code Supplement 2001, is amended to read as follows:

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~~ and the carrier containing 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.

Sec. 72. Section 514J.7, subsection 6, Code Supplement 2001, is amended to read as follows:

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 it is reasonable 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.

Sec. 73. Section 518A.41, Code 2001, is amended to read as follows:
518A.41 AGENTS TO BE LICENSED.

No person or corporation shall solicit any application for insurance for any association in this state without having procured from the commissioner of insurance a license authorizing the person or corporation to act as ~~agent~~ an insurance producer. Violation of this provision shall constitute a serious misdemeanor.

Sec. 74. Section 518A.43, Code 2001, is amended to read as follows:
518A.43 CANCELLATION OF LICENSE.

The commissioner of insurance may, for a just and reasonable cause, cancel the license of such ~~agent~~ an insurance producer after due notice and hearing.

Sec. 75. Section 522B.1, subsections 6 and 9, Code Supplement 2001, are amended to read as follows:

6. "Insurer" means a person engaged in the business of insurance who is ~~licensed~~ regulated under chapter 508, 512B, 515, or 520.

9. "Limited lines producer" means a person ~~authorized~~ licensed by the commissioner to sell, solicit, or negotiate limited lines insurance.

Sec. 76. Section 522B.3, subsection 2, paragraph b, subparagraph (1), Code Supplement 2001, is amended to read as follows:

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

Sec. 77. Section 522B.6, subsection 7, Code Supplement 2001, is amended to read as follows:

7. A licensee shall inform the commissioner by any means acceptable to the commissioner of a change of legal name or 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.

Sec. 78. Section 523A.102, subsection 3, Code Supplement 2001, is amended to read as follows:

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, funeral services, or a combination thereof without any related trust agreement.

Sec. 79. Section 523A.202, subsection 2, Code Supplement 2001, is amended to read as follows:

2. All funds required to be deposited by the purchaser or the seller 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 or the seller 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.

Sec. 80. Section 523A.302, Code Supplement 2001, is amended to read as follows:

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 mortuary science services as mortuary science is defined in chapter 156 section 156.1, 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. 81. Section 523A.402, subsection 5, paragraph a, Code Supplement 2001, is amended to read as follows:

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 to the establishment and any designation of the establishment as a beneficiary shall not be made irrevocable.

Sec. 82. Section 523A.501, subsection 6, Code Supplement 2001, is amended to read as follows:

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 no denial order is in effect and no proceeding is pending under section 523A.503, the application becomes effective at noon of the thirtieth day after a completed application or an amendment completing the application is filed, unless waived by the applicant. The commissioner may specify an earlier effective date. Automatic effectiveness under this subsection 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.

Sec. 83. Section 523A.502, subsection 8, Code Supplement 2001, is amended to read as follows:

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 no denial order is in effect and no proceeding is pending under section~~

523A.503, the application becomes effective at noon of the thirtieth day after a completed application or an amendment completing the application is filed, unless waived by the applicant. The commissioner may specify an earlier effective date. Automatic effectiveness under this subsection 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.

Sec. 84. Section 523A.601, subsection 4, Code Supplement 2001, is amended to read as follows:

4. A purchase agreement shall be signed by the purchaser, the seller, and if the agreement is for funeral mortuary science services as mortuary science is defined in ~~chapter 156 section 156.1~~, a person licensed to deliver funeral services.

Sec. 85. Section 523A.901, subsection 5, paragraph c, Code Supplement 2001, is amended to read as follows:

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~~ within sixty days after the petition is denied.

Sec. 86. Section 523A.901, subsection 8, paragraph a, Code Supplement 2001, is amended to read as follows:

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 recorder of~~ deeds 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.

Sec. 87. Section 554.8106, subsection 6, Code Supplement 2001, is amended to read as follows:

6. A purchaser who has satisfied the requirements of subsection 3 or 4 has control, even if the registered owner in the case of subsection 3, ~~paragraph "b"~~, or the entitlement holder in the case of subsection 4, retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

Sec. 88. Section 554.9109, subsection 1, paragraph e, Code Supplement 2001, is amended to read as follows:

e. a security interest arising under section 554.2401, 554.2505, 554.2711, subsection 3, ~~section 554.9110, or 554.13508, subsection 5~~ as provided in section 554.9110; and

Sec. 89. Section 554.9521, subsection 2, Code Supplement 2001, is amended to read as follows:

2. AMENDMENT FORM. A filing office that accepts written records may not refuse to accept a written ~~record~~ amendment in a form and format approved by the secretary of state by rule adopted pursuant to chapter 17A except for a reason set forth in section 554.9516, subsection 2. The forms shall be consistent with those set forth in the final official text of the 1999 revisions to Article 9 of the Uniform Commercial Code promulgated by the American law institute and the national conference of commissioners on uniform state laws.

Sec. 90. Section 554.9525, subsection 1, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

Except as otherwise provided in ~~subsection~~ subsections 3 and 4, fees for services rendered by the filing office under this part must be set by rules adopted by the secretary of state's office for services for that office. The rule must set the fees for filing and indexing a record under this part on the following basis:

Sec. 91. Section 554.9525, subsection 3, Code Supplement 2001, is amended to read as follows:

3. RESPONSE TO INFORMATION REQUEST. A rule 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. However, if the filing office is in the county, the board of supervisors for the county may adopt an ordinance or resolution setting the fee for responding to a request for the information. 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. 92. Section 554.9602, subsection 3, Code Supplement 2001, is amended to read as follows:

3. section 554.9607, subsection 3, which deals with collection and enforcement of as to collateral;

Sec. 93. Section 579A.3, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

While the cattle are located at the custom cattle feedlot, the custom cattle feedlot operator may ~~foreclose~~ enforce a lien created in section 579A.2 in the manner provided for the enforcement of an agricultural lien as provided in chapter 554, article 9, part 6. After the cattle have left the custom cattle feedlot, the custom cattle feedlot operator may enforce the lien by commencing an action at law for the amount of the lien against either of the following:

Sec. 94. Section 579B.1, subsection 13, Code Supplement 2001, is amended to read as follows:

13. "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. 95. Section 579B.3, subsection 2, Code Supplement 2001, is amended to read as follows:

2. 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~~ contractor 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. 96. Section 602.8107, subsection 2, paragraph b, Code Supplement 2001, is amended to read as follows:

b. Fines or penalties and criminal penalty and law enforcement initiative surcharges.

Sec. 97. Section 633.231, Code Supplement 2001, is amended to read as follows:

633.231 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 to creditors 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 to creditors 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. 98. Section 633.304, unnumbered paragraph 2, Code 2001, is amended to read as follows:

As used in this section, "heir" means only such person as would, in an intestate estate, be entitled to a share under section 633.219, subsection 1, 2, 3, or 4.

Sec. 99. Section 633.304A, Code Supplement 2001, is amended to read as follows:
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 to creditors 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~~ the notice to creditors 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. 100. Section 633.305, unnumbered paragraph 2, Code 2001, is amended to read as follows:

As used in this section, "heir" means only such person as would, in an intestate estate, be entitled to a share under section 633.219, ~~subsection 1, 2, 3, or 4.~~

Sec. 101. Section 633.3109, subsection 1, Code 2001, is amended to read as follows:

1. As used in this section, "heir" means only such person as would, in an intestate estate, be entitled to a share under section 633.219, ~~subsection 1, 2, 3, or 4.~~

Sec. 102. Section 692A.1, subsection 4, paragraph m, Code Supplement 2001, is amended to read as follows:

m. Sexual exploitation of a minor in violation of section 728.12, ~~subsection 2 or 3.~~

Sec. 103. Section 726.3, Code Supplement 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 233.2, voluntarily released custody of a newborn infant shall not be prosecuted for a violation of this section involving abandonment of that a newborn infant, if the parent or the person authorized by the parent has voluntarily released custody of the newborn infant in accordance with section 233.2.

Sec. 104. Section 726.6, subsection 2, Code Supplement 2001, is amended to read as follows:

2. A parent or person authorized by the parent who has, in accordance with section 233.2, voluntarily released custody of a newborn infant shall not be prosecuted for a violation of subsection 1, paragraph "f" relating to abandonment, if the parent or person authorized by the parent has voluntarily released custody of a newborn infant in accordance with section 233.2.

Sec. 105. Section 902.3A, subsection 1, paragraph d, Code Supplement 2001, is amended to read as follows:

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~~ and rules adopted under those chapters.

Sec. 106. Section 4.1, subsection 21A, section 321.500, section 602.8103, subsection 4, paragraph d, section 617.3, and section 708.11, subsection 5, Code 2001, are amended by striking the words ", 3d ed" or the words ", 3rd ed".

Sec. 107. Section 229.1 and section 602.8102, subsections 136 through 163, Code Supplement 2001, are amended by striking the words ", 3d ed".

Sec. 108. Section 229.26, Code Supplement 2001,⁶ is amended by striking the words "third edition,".

Sec. 109. Section 805.1, subsection 4, Code Supplement 2001, is amended by striking the words ", 3rd ed".

Sec. 110. Sections 192.132, 309.75, and 502.612, Code 2001, are repealed.

⁶ Code 2001 probably intended

Sec. 111. Section 432.11, Code Supplement 2001, is repealed.

2001 IOWA ACTS AMENDMENTS

Sec. 112. Section 542D.7, subsection 3, paragraph a, as enacted by 2001 Iowa Acts, chapter 55, section 7, is amended to read as follows:

a. An applicant for initial issuance or renewal of a permit to practice as a firm ~~must~~ shall 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.

Sec. 113. Section 542D.13, subsection 9, as enacted by 2001 Iowa Acts, chapter 55, section 13, is amended to read as follows:

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 otherwise prohibit the use of the title or designation "accountant" by persons other than those holding a certificate or license under this chapter.

DIVISION II

Sec. 114. Section 10.1, subsection 4, Code 2001, is amended to read as follows:

4. "Commodity share landlord" means a natural person or a general partnership as provided in chapter ~~486~~ 486A in which all partners are natural persons, who owns at least one hundred fifty acres of agricultural land, if the owner receives rent on a commodity share basis, which may be either a share of the crops or livestock produced on the land.

Sec. 115. Section 10.1, subsection 19, paragraph b, Code 2001, is amended to read as follows:

b. A general partnership as provided in chapter ~~486~~ 486A in which all partners are natural persons actively engaged in farming.

Sec. 116. Section 13B.4, subsection 1, Code 2001, is amended to read as follows:

1. The state public defender shall coordinate the provision of legal representation of all indigents under arrest or charged with a crime, seeking postconviction relief, against whom a contempt action is pending, in proceedings under chapter 229A, in juvenile proceedings, on appeal in criminal cases, on appeal in proceedings to obtain postconviction relief when ordered to do so by the district court in which the judgment or order was issued, and on a reopening of a sentence proceeding, and may provide for the representation of indigents in proceedings instituted pursuant to chapter 908. The state public defender shall not engage in the private practice of law.

Sec. 117. Section 13B.8, subsection 2, Code 2001, is amended to read as follows:

2. The state public defender may appoint and may, for cause, remove the local public defender, assistant local public defenders, clerks, investigators, secretaries, or other employees for cause. Each local public defender, and any assistant local public defender, must be an attorney admitted to the practice of law before the Iowa supreme court.

Sec. 118. Section 14B.101, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Department" means the information technology department.

Sec. 119. Section 14B.105, subsection 1, paragraph b, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

The members appointed by the governor pursuant to paragraph "a", subparagraphs (3) through (7), shall serve four-year staggered terms as ~~designated by the governor~~ and such appointments to the information technology council are subject to the requirements of sections 69.16, 69.16A, and 69.19. The four-year terms of members appointed by the governor shall be staggered as designated by the governor. Members appointed by the governor pursuant to paragraph "a", subparagraphs (3) through (7), shall not serve consecutive four-year terms. Members appointed by the governor are subject to senate confirmation and ~~shall be reimbursed for actual and necessary expenses incurred in performance of their duties.~~ Such members may also be eligible to receive compensation as provided in section 7E.6. Members shall be reimbursed for actual and necessary expenses incurred in performance of the members' duties.

Sec. 120. Section 15E.195, subsection 2, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

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 July 1, 1998~~, the city may petition to the department of economic development to change the structure of the existing commission.

Sec. 121. Section 29A.17, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The military staff of the governor shall consist of the adjutant general, who shall be the chief of staff; the deputy adjutants general, who shall be the assistant chiefs of staff; and ~~the~~ any aides, who shall be residents of the state, as the governor may appoint or detail from the armed forces of the state.

Sec. 122. Section 29A.66, Code 2001, is amended to read as follows:

29A.66 APPLICABLE POWERS AND DUTIES.

The powers and duties of the governor, the adjutant general, and the deputy adjutants gener-

al, with relation to the Iowa state guard, shall be the same as those powers and duties prescribed in this chapter for the those officers with relation to the national guard.

Sec. 123. Section 48A.31, Code 2001, is amended to read as follows:
48A.31 DECEASED PERSONS RECORD.

The state registrar of vital statistics shall transmit or cause to be transmitted to the state registrar of voters, once each calendar quarter, a certified list of all persons seventeen and one-half years of age and older in the state whose deaths have been reported to the bureau of vital records and statistics division of the Iowa department of public health since the previous list of decedents was certified to the state registrar of voters. The list shall be submitted according to the specifications of the state registrar of voters, who shall determine whether each listed decedent was registered to vote in this state. If the decedent was registered in a county which uses its own data processing facilities for voter registration recordkeeping, the registrar shall notify the commissioner in that county who shall cancel the decedent's registration. If the decedent was registered in a county for which voter registration recordkeeping is performed under contract by the registrar, the registrar shall immediately cancel the registration and notify the commissioner of the county in which the decedent was registered to vote of the cancellation.

Sec. 124. Section 56.2, subsection 14, paragraph c, Code 2001, is amended by striking the paragraph.

Sec. 125. Section 56.14, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. ~~Yard signs shall not be placed on any property which adjoins a city, county, or state roadway sooner than forty-five days preceding a primary or general election and shall be removed within seven days after the primary or general election in which the name of the particular candidate or ballot issue described on the yard sign appears on the ballot. Yard signs are subject to removal by highway authorities as provided in section 319.13, or by county or city law enforcement authorities in a manner consistent with section 319.13. The placement or erection of yard signs shall be exempt from the requirements of chapter 480. Notice may be provided to the chairperson of the appropriate county central committee if the highway authorities are unable to provide notice to the candidate, candidate's committee, or political committee regarding the yard sign.~~

Sec. 126. Section 97B.50A, subsection 7, paragraph b, subparagraph (4), Code 2001, is amended to read as follows:

(4) This paragraph does not apply to a member who is at least fifty-five years of age and would have completed a sufficient number of years of service if the member had remained in active special service employment. For purposes of this subparagraph, a sufficient number of years of service shall be ~~twenty-five~~ the applicable years of service for a special service member as described in section 97B.49B or twenty-two for a special service member as described in section 97B.49C.

Sec. 127. Section 101.22, subsection 4, Code 2001, is amended to read as follows:

4. The registration notice of the owner or operator to the state fire marshal under subsections 1 through 3 shall be accompanied by a an annual fee of ten dollars for each tank included in the notice. All moneys collected shall be retained by the department of public safety and are appropriated for the use of the state fire marshal. The annual renewal fee applies to all owners or operators who filed a registration notice with the state fire marshal pursuant to subsections 1 through 3.

Sec. 128. Section 123.39, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. The administrator or the local authority may suspend a license or permit issued pursuant

to the ~~this~~ chapter for a period not to exceed one year, revoke the license or permit, or impose a civil penalty not to exceed one thousand dollars per violation. Before suspension, revocation, or imposition of a civil penalty, the license or permit holder shall be given written notice and an opportunity for a hearing. The administrator may appoint a member of the division or may request an administrative law judge from the department of inspections and appeals to conduct the hearing and issue a proposed decision. Upon the motion of a party to the hearing or upon the administrator's own motion, the administrator may review the proposed decision in accordance with chapter 17A. Upon review of the proposed decision, the administrator may affirm, reverse, or modify the proposed decision. A licensee or permittee aggrieved by a decision of the administrator may seek judicial review of the administrator's decision in accordance with chapter 17A.

Sec. 129. Section 135.43, subsection 5, paragraph d, Code 2001, is amended to read as follows:

d. The administrator of the ~~division~~ bureau of vital records of the Iowa department of public health.

Sec. 130. Section 135.43, subsection 7, paragraph b, Code 2001, is amended to read as follows:

b. A person in possession or control of medical, investigative, assessment, or other information pertaining to a child death and child abuse review shall allow the inspection and reproduction of the information by the department upon the request of the department, to be used only in the administration and for the duties of the Iowa child death review team. Except as provided for a report on a child fatality by an ad hoc child fatality review committee under subsection 4 ~~and, information and~~ records produced under this section which are confidential under section 22.7 and chapter 235A, and information or records received from the confidential records, remain confidential under this section. A person does not incur legal liability by reason of releasing information to the department as required under and in compliance with this section.

Sec. 131. Section 135.110, subsection 2, Code 2001, is amended to read as follows:

2. In performing duties pursuant to subsection 1, the review team shall review the relationship between the decedent victim and the alleged ~~or convicted~~ perpetrator from the point where the abuse allegedly began, until the domestic abuse death occurred, and shall review all relevant documents pertaining to the relationship between the parties, including but not limited to protective orders and dissolution, custody, and support agreements and related court records, in order to ascertain whether a correlation exists between certain events in the relationship and any escalation of abuse, and whether patterns can be established regarding such events in relation to domestic abuse deaths in general. The review team shall consider such conclusions in making recommendations pursuant to subsection 1.

Sec. 132. Section 137C.7, Code 2001, is amended to read as follows:

137C.7 LICENSE REQUIRED.

No person shall open or operate a hotel until a license has been obtained from the regulatory authority and until the hotel has been inspected by the regulatory authority. ~~A license issued by the department of agriculture prior to January 1, 1979 shall be valid until its expiration date. An inspection conducted by the department of agriculture prior to January 1, 1979 shall be valid for purposes of this section.~~ Each license shall expire one year from date of issue. A license is renewable. All licenses issued under the Iowa hotel sanitation code that are not renewed by the licensee on or before the expiration date shall be subject to a penalty of ten percent of the license fee if the license is renewed at a later date. A license is not transferable.

Sec. 133. Section 139A.10, Code 2001, is amended to read as follows:

139A.10 FEES FOR REMOVING.

The officers designated ~~by the magistrate~~ shall receive reasonable compensation for their

services as determined by the local board. The amount determined shall be certified and paid in the same manner as other expenses incurred under this chapter.

Sec. 134. Section 139A.30, Code 2001, is amended to read as follows:

139A.30 CONFIDENTIAL REPORTS.

Reports to the department which include the identity of persons infected with a sexually transmitted disease or infection, and all such related information, records, and reports concerning the person, shall be confidential and shall not be accessible to the public. However, such reports, information, and records shall be confidential only to the extent necessary to prevent identification of persons named in such reports, information, and records; the other parts of such reports, information, and records shall be public records. The preceding sentence shall prevail over any inconsistent provision of this ~~chapter~~ subchapter.

Sec. 135. Section 161.2, subsection 4, Code 2001, is amended to read as follows:

4. "Board" means the agrichemical remediation ~~reimbursement~~ board created under section 161.3.

Sec. 136. Section 161.2, subsection 9, unnumbered paragraph 1, Code 2001, is amended to read as follows:

"Fertilizer site" means a place where containers used for storing or mixing a fertilizer are located, if any of the following apply:

Sec. 137. Section 161.2, subsection 14, Code 2001, is amended by striking the subsection.

Sec. 138. Section 161.6, subsection 4, paragraph a, Code 2001, is amended to read as follows:

a. For a high priority site, soil and groundwater site cleanup shall include active ~~remediation site cleanup~~ where technically feasible, until such time as the groundwater contamination levels are below action levels.

Sec. 139. Section 161.8, subsection 3, paragraph b, subparagraph (1), Code 2001, is amended to read as follows:

(1) The responsible person performed reasonable measures necessary for the immediate abatement of any ~~prohibited release~~ contamination.

Sec. 140. Section 166D.7, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. The herd shall be certified when all breeding swine have reacted negatively to a test. The herd must have been free from infection for thirty days prior to testing. At least ninety percent of swine in the herd must have been on the premises as a part of the herd for at least sixty days prior to testing, or swine in the herd must have been moved or relocated directly from another qualified negative herd. To remain certified, the herd must be retested and recertified each month as provided by the department. The herd shall be recertified when ~~each month~~ the greater of five head of swine or at least ten percent of the herd's breeding swine react negatively to a test.

Sec. 141. Section 166D.10, subsection 1, paragraph c, Code 2001, is amended to read as follows:

c. A person transfers ownership of all or part of a herd, if the herd remains on the same premises. However, the herd must be tested by statistical sampling. If any part of the herd is subsequently moved or relocated, the swine must be moved or relocated in accordance with this section and sections 166D.7, 166D.8, and ~~166D.9~~ 166D.10A.

Sec. 142. Section 166D.10B, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A person shall not maintain swine other than feeder ~~swine~~ pigs or cull swine at an approved premises.

Sec. 143. Section 183A.7, unnumbered paragraph 3, Code 2001, is amended to read as follows:

From the moneys collected, deposited, and transferred to the council as provided in this chapter, the council shall first pay the costs of referendums held pursuant to this chapter. Of the moneys remaining, ~~at least ten percent shall be remitted to the national livestock and meat board and the pork industry group;~~ at least twenty-five percent shall be remitted to the national pork producers council; and at least fifteen percent shall be remitted to the Iowa pork producers association, in the proportion the committee determines, for use by recipients in a manner not inconsistent with market development as defined in section 183A.1. Moneys remaining shall be spent as found necessary by the council to further carry out the provisions and purposes of this chapter.

Sec. 144. Section 202A.1, subsection 3, Code 2001, is amended to read as follows:

3. "Packer" means a person who is engaged in the business of slaughtering livestock or receiving, purchasing, or soliciting livestock for slaughter, if the meat products of the slaughtered livestock which are directly or indirectly to be offered for resale or for public consumption have a total annual value of ten million dollars or more. 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. ~~"Packer" does not include a frozen food locker plant regulated under chapter 172.~~

Sec. 145. Section 207.22, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. Acquisition of coal refuse disposal sites and all coal refuse thereon will serve the purposes of title IV of Pub. L. No. 95-87 or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effect of past coal mining practices.

Sec. 146. Section 216A.102, subsection 1, Code 2001, is amended to read as follows:

1. An energy crisis fund is created in the state treasury. Moneys deposited in the fund shall be used to assist low-income families who qualify for the low-income ~~heating~~ home energy assistance program to avoid loss of essential heating.

Sec. 147. Section 232.141, subsection 3, paragraphs c and d, Code 2001, are amended to read as follows:

c. Costs incurred for compensation of an attorney appointed by the court to serve as counsel to any party or as guardian ad litem for any child shall be ~~made~~ paid in accordance with sections 13B.4 and 815.7.

d. Costs incurred under subsection 2 shall be paid by the state. The county shall be required to reimburse the indigent defense fund for costs incurred by the state up to the county's base in subsection ~~2~~ 3.

Sec. 148. Section 256D.1, subsection 1, paragraph b, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The department of education shall identify diagnostic assessment tools that can be used to assist teachers in measuring reading accuracy and fluency skills, including but not limited to, phonemic awareness, oral reading ability, and ~~comprehensive~~ comprehension skills, to improve student achievement in kindergarten through grade three. The department, in collaboration with the area education agencies, school districts, and institutions with approved practitioner preparation programs, shall identify and serve as a clearinghouse on intensive,

research-based strategies and programs for training teachers in both diagnosis and appropriate instruction interventions.

Sec. 149. Section 272C.3, subsection 2, paragraph a, Code Supplement 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, ~~455B.219~~, 542B.21, 542C.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151, 155, 507B, or 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. 150. Section 272C.4, subsection 6, Code Supplement 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~~ ~~455B.219~~, 542B.21, 542C.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151, 155, 507B, or 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. 151. Section 303.86, Code 2001, is amended to read as follows:
303.86 ARTS COUNCIL.

The Iowa state arts council is created as an advisory council, consisting of fifteen members, appointed by the governor from among citizens of Iowa who are recognized for their interest or experience in connection with the performing and fine arts. In making appointments, due consideration shall be given to the recommendations made by representative civic, educational, and professional associations and groups concerned with or engaged in the production or presentation of the performing and fine arts.

The term of office of each member of the Iowa state arts council is three years. The governor shall designate a chairperson and a vice chairperson from the members of the council to serve at the pleasure of the governor. All vacancies shall be filled for the balance of any unexpired term in the same manner as original appointments. The members of the council shall not receive compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the council. Members may also be eligible for compensation as provided in section 7E.6.

Sec. 152. Section 321.219, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

A person shall not cause or knowingly permit the person's child or ward under the age of eighteen years to drive a motor vehicle upon any highway when the minor is not authorized under this section ~~or in violation of this chapter~~.

Sec. 153. Section 321.279, subsection 1, Code 2001, is amended to read as follows:

1. The driver of a motor vehicle commits a serious misdemeanor if the driver willfully fails to bring the motor vehicle to a stop or otherwise eludes or attempts to elude a marked official law enforcement vehicle driven by a uniformed peace officer after being given a visual and audible signal to stop. The signal given by the peace officer shall be by flashing red light, or by flashing red and blue lights, and siren. For purposes of this section, "peace officer" means those officers designated under section 801.4, subsection 11, paragraphs "a", "b", "c", "g", and "h".

Sec. 154. Section 321.560, subsection 1, paragraph b, Code Supplement 2001, is amended to read as follows:

b. A temporary restricted 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, paragraph⁷ “b” ~~or~~ and “c”.

Sec. 155. Section 321J.17, subsection 2, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The court or department may request that the community college or substance abuse treatment providers licensed under chapter 125 conducting the course for drinking drivers ~~which that~~ the person is ordered to attend immediately report to the court or department that the person has successfully completed the course for drinking drivers. The court or department may request that the treatment program which the person attends periodically report on the defendant’s attendance and participation in the program, as well as the status of treatment or rehabilitation.

Sec. 156. Section 322C.2, subsections 4 and 7, Code 2001, are amended by striking the subsections.

Sec. 157. Section 331.424A, subsection 4, Code Supplement 2001, is amended to read as follows:

4. For the fiscal year beginning July 1, 1996, and for each subsequent fiscal year, the county shall certify a levy for payment of services. For each fiscal year, county revenues from taxes imposed by the county credited to the services fund shall not exceed an amount equal to the amount of base year expenditures for services as defined in section 331.438, less the amount of property tax relief to be received pursuant to section 426B.2, in the fiscal year for which the budget is certified. The county auditor and the board of supervisors shall reduce the amount of the levy certified for the services fund by the amount of property tax relief to be received. A levy certified under this section is not subject to the appeal provisions of ~~sections~~ section 331.426 ~~and 444.25B~~ or to any other provision in law authorizing a county to exceed, increase, or appeal a property tax levy limit.

Sec. 158. Section 331.424B, Code 2001, is amended to read as follows:

331.424B CEMETERY LEVY.

The board may levy annually a tax not to exceed six and three-fourths cents per thousand dollars of the assessed value of all taxable property in the county to repair and maintain all cemeteries under the jurisdiction of the board including pioneer cemeteries and to pay other expenses of the board or the cemetery commission as provided in section 331.325. The proceeds of the tax levy shall be credited to the county general fund. ~~Sections 444.25A and 444.25B do not apply to the property tax levied or expended for cemeteries pursuant to section 331.325.~~

Sec. 159. Section 331.756, subsection 5, Code 2001, is amended to read as follows:

5. Enforce all forfeited bonds and recognizances and prosecute all proceedings necessary for the recovery of debts, revenues, moneys, fines, penalties, restitution of court-appointed attorney fees ~~or~~ ordered pursuant to section 815.9, including the expense of a public defender, and forfeitures accruing to the state, the county or a road district in the county, and all suits in the county against public service corporations which are brought in the name of the state. To assist in this duty, the county attorney may procure professional collection services provided by persons or organizations, including private attorneys, which are generally considered to have knowledge and special abilities which are not generally available to state or local government or may designate another county official or agency to assist with collection efforts.

If professional collection services are procured, the county attorney shall file with the clerk of the district court an indication of the satisfaction of each obligation to the full extent of all

⁷ According to enrolled Act

moneys collected in satisfaction of that obligation, including all fees and compensation retained by the collection service incident to the collection and not paid into the office of the clerk.

Before a county attorney designates another county official or agency to assist with collection of debts, revenues, moneys, fines, penalties, restitution of court-appointed attorney fees ~~or ordered pursuant to section 815.9, including the~~ expense of a public defender, and forfeitures, the board of supervisors of the county must approve the designation.

All fines, penalties, court costs, fees, and restitution for court-appointed attorney fees ~~or ordered pursuant to section 815.9, including the~~ expenses of a public defender which are delinquent as defined in section 602.8107 may be collected by the county attorney or the person procured or designated by the county attorney. In order to receive a percentage of the amounts collected pursuant to section 602.8107, the county attorney must file annually with the clerk of the district court on or before July 1 a notice of full commitment to collect delinquent obligations and must file on the first day of each month a list of the cases in which the county attorney or the person procured or designated by the county attorney is pursuing the collection of delinquent obligations. The annual notice shall contain a list of procedures which will be initiated by the county attorney. Amounts collected by the county attorney or the person procured or designated by the county attorney shall be distributed in accordance with section 602.8107.

Sec. 160. Section 403.6, subsection 17, Code 2001, is amended to read as follows:

17. Subject to applicable state or federal regulations in effect at the time of the ~~city~~ municipal action, accept contributions, grants, and other financial assistance from the state or federal government to be used upon a finding of public purpose for grants, loans, loan guarantees, interest supplements, technical assistance, or other assistance as necessary or appropriate to private persons for an urban renewal project.

Sec. 161. Section 403.17, subsection 10, Code 2001, is amended to read as follows:

10. "Economic development area" means an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises, public improvements related to housing and residential development, or construction of housing and residential development for low and moderate income families, including single or multifamily housing. If an urban renewal plan for an urban renewal area is based upon a finding that the area is an economic development area and that no part contains slum or blighted conditions, then the division of revenue provided in section 403.19 and stated in the plan shall be limited to twenty years from the calendar year following the calendar year in which the ~~city~~ municipality first certifies to the county auditor the amount of any loans, advances, indebtedness, or bonds which qualify for payment from the division of revenue provided in section 403.19. Such designated area shall not include agricultural land, including land which is part of a century farm, unless the owner of the agricultural land or century farm agrees to include the agricultural land or century farm in the urban renewal area. For the purposes of this subsection, "century farm" means a farm in which at least forty acres of such farm have been held in continuous ownership by the same family for one hundred years or more.

Sec. 162. Section 404A.3, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The state historic preservation office shall establish selection criteria and standards for rehabilitation projects involving eligible property. The main emphasis of the standards shall be to ensure that a rehabilitation project maintains the integrity of the eligible property. To the extent applicable, the standards shall be consistent with the standards of the United States secretary of the interior for rehabilitation of eligible property that is listed on the national register of historic places or is designated as of historic significance to a district listed in the national register of historic places or shall be consistent with standards for issuance of certificates of appropriation appropriateness under sections 303.27 through 303.32.

Sec. 163. Section 422.4, subsection 2, paragraph c, Code 2001, is amended by striking the paragraph.

Sec. 164. Section 422.45, subsection 24, unnumbered paragraph 2, Code Supplement 2001, is amended by striking the unnumbered paragraph.

Sec. 165. Section 422.52, subsection 4, Code 2001, is amended to read as follows:

4. The tax by this division imposed upon those sales of motor vehicle fuel which are subject to tax and refund under chapter 452A shall be collected by the ~~state treasurer~~ department by way of deduction from refunds otherwise allowable under said chapter. The amount of such deductions the ~~treasurer~~ department shall transfer from the motor vehicle fuel fund to the special tax fund.

Sec. 166. Section 422B.1, subsection 6, paragraph b, Code 2001, is amended to read as follows:

b. 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 a local option 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 or, in the case of a local vehicle tax, to the director of the department of transportation, ~~of the result of the election.~~

Sec. 167. Section 426B.1, subsection 2, paragraphs a and b, Code 2001, are amended by striking the paragraphs.

Sec. 168. Section 427.2A, unnumbered paragraph 3, Code 2001, is amended by striking the unnumbered paragraph.

Sec. 169. Section 432.1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Every insurance company or association of whatever kind or character, not including fraternal beneficiary associations, and nonprofit hospital and medical service corporations, shall, as required by law, pay to the director of the department of revenue and finance, or to a depository designated by the director, as taxes, an amount equal to the following, except that the premium tax applicable to county mutual insurance associations shall be governed by section 518.18:

Sec. 170. Section 455B.190A, subsection 1, paragraph e, Code 2001, is amended by striking the paragraph.⁸

Sec. 171. Section 455B.190A, subsection 2, paragraphs f and g, Code 2001, are amended to read as follows:

f. The department shall develop continuing education requirements for certification of a well contractor ~~in consultation with the well contractors' council.~~

g. The examination shall be developed by the department ~~in consultation with the well contractors' council.~~ The examination shall be updated as necessary to reflect current groundwater law and well construction, maintenance, and abandonment practices.⁹

Sec. 172. Section 455B.190A, subsections 3 and 6, Code 2001, are amended by striking the subsections.¹⁰

Sec. 173. Section 455B.190A, subsection 4, Code 2001, is amended to read as follows:

4. The department shall develop, ~~in consultation with the well contractors' council,~~ a consumer information pamphlet regarding well construction, well maintenance, well plugging, and Iowa groundwater laws. The department ~~and the council~~ shall review and revise the consumer information pamphlet as necessary. The consumer information pamphlet shall be sup-

⁸ See chapter 1175, §100 herein

⁹ See chapter 1175, §100 herein

¹⁰ See chapter 1175, §100 herein

plied to well contractors, at cost, and well contractors shall supply one copy at no cost to potential customers prior to initiation of well services.

Sec. 174. Section 455B.190A, subsection 5, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The department shall establish by rule and collect, ~~in consultation with the well contractors' council,~~ the following fees to be used to implement and administer the provisions of this section:¹¹

Sec. 175. Section 455B.601, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. A responsible person has executed a remediation agreement with the agricultural remediation reimbursement board and the responsible person is remediating or has remediated the site pursuant to a plan of remediation as provided in chapter 161.

Sec. 176. Section 455E.11, subsection 2, paragraph b, subparagraph (1), Code Supplement 2001, is amended to read as follows:

(1) Nine thousand dollars of the account is appropriated to the Iowa department of public health for carrying out the departmental duties under section 135.11, subsections 20 and 21, and section ~~139A.31~~ 139A.21.

Sec. 177. Section 476.66, subsections 1 and 7, Code 2001, are amended to read as follows:

1. The utilities board shall adopt rules which shall require each electric and gas public utility to establish a fund whose purposes shall include the receiving of contributions to assist the utility's low-income customers with weatherization measures to improve energy efficiency related to winter heating and summer cooling, and to supplement the energy assistance received under the federal low-income heating home energy assistance program for the payment of winter heating electric or gas utility bills.

7. Existing programs to receive customer contributions established by public utilities shall be construed to meet the requirements of this section. Such plans shall be subject to review by the utilities board. ~~If determined not to be in compliance with the provisions of this section, they shall be given until July 1989 to modify their operation so as to be in compliance.~~

Sec. 178. Section 486A.1102, subsection 2, Code 2001, is amended to read as follows:

2. The agent of a foreign limited liability company partnership for service of process must be an individual who is a resident of this state or other person authorized to do business in this state.

Sec. 179. Section 511.8, subsection 22, paragraph d, Code 2001, is amended to read as follows:

d. Investments in financial instruments used in hedging transactions are not eligible in excess of ten percent of the legal reserve, except insofar as the financial instruments are collateralized by cash or United States government obligations as authorized by subsection 1 deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under this that section are instituted.

Sec. 180. Section 514.3, Code 2001, is amended to read as follows:

514.3 APPROVAL BY COMMISSIONER.

The articles of incorporation, and any subsequent amendments, of a corporation shall have endorsed on or annexed to those articles or amendments the approval of the commissioner of insurance before the same shall be filed for record. A corporation shall file with the commis-

¹¹ See chapter 1175, §100 herein

sioner bylaws and subsequent amendments to the bylaws within thirty days of the adoption of the bylaws and amendments.

Sec. 181. Section 515.24, Code 2001, is amended to read as follows:
515.24 TAX — COMPUTATION.

For the purpose of determining the basis of any tax upon the “gross amount of premiums”, or “gross receipts from premiums, assessments, fees, and promissory obligations”, now or hereafter imposed upon any fire or casualty insurance company under any law of this state, such gross amount or gross receipts shall consist of the gross premiums or receipts for direct insurance, without including or deducting any amounts received or paid for reinsurance except that any company reinsuring windstorm or hail risks written by county mutual insurance associations shall be required to pay a two percent tax on the gross amount of reinsurance premiums received upon such risks, but with such other deductions as provided by law, and in addition deducting any so-called dividend or return of savings or gains to policyholders; provided that as to any deposits or deposit premiums received by any such company, the taxable premiums shall be the portion of such deposits or deposit premiums earned during the year with such deductions therefrom as provided by law.

Sec. 182. Section 515F.3, subsection 6, Code 2001, is amended to read as follows:

6. Insurance written by a county mutual insurance association as provided in chapter ~~518A~~ 518.¹²

Sec. 183. Section 518.17, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Reinsurance sufficient to protect the financial stability of the state mutual insurance association is also required. Reinsurance coverage obtained by a county mutual insurance association shall not expose the association to losses from coverages written pursuant to this chapter of more than fifteen percent from surplus in any calendar year. The commissioner of insurance may require additional reinsurance if necessary to protect the policyholders of the association.

Sec. 184. Section 536A.12, subsection 1, Code 2001, is amended to read as follows:

1. Each such license remains in full force and effect until surrendered, revoked, or suspended, or until there is a change of control on or after January 1, 1996. A licensee, on or before the second day of January, shall pay to the superintendent the sum of two hundred fifty dollars as an annual license fee for the succeeding calendar year. When a licensee changes its place of business from one location to another in the same city, it shall at once give written notice to the superintendent who shall attach to the license in writing the superintendent’s record of the change and the date of the change, which is authority for the operation of the business under that license at the new place of business.

Sec. 185. Section 536A.30, subsection 4, Code 2001, is amended to read as follows:

4. Section 536A.12, to the extent it requires a licensee to pay an annual license fee which, when combined with that required in section 536A.7, is in excess of ~~ten~~ two hundred fifty dollars.

Sec. 186. Section 537A.10, subsection 5, paragraph b, subparagraph (2), Code Supplement 2001, is amended to read as follows:

(2) If pursuant to such a transfer ~~less than~~ or less fifty percent of the entire franchise would be owned by persons who meet the franchisor’s reasonable current qualifications, the franchisor may refuse to authorize the transfer, provided that enforcement of the reasonable current qualifications is not arbitrary or capricious.

Sec. 187. Section 554D.120, subsection 2, Code 2001, is amended to read as follows:

2. Except as otherwise provided in section 554D.114, subsection 6, on or before July 1, 2003,

¹² See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §246, 262 herein

a state executive branch agency, department, board, commission, authority, or institution, in consultation and cooperation with the ~~division of information technology services of the department of general services~~, shall send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and signatures. The department of management, upon the written request of a state executive branch agency, department, board, commission, authority, or institution and for good cause shown, may grant a waiver from the July 1, 2003, deadline established in this section to the state executive branch agency, department, board, commission, authority, or institution.

Sec. 188. Section 554D.120, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

To the extent that a governmental agency of this state uses electronic records and electronic signatures under subsection 1 or 2, the office of the secretary of state and the ~~division of information technology services of the department of general services~~, jointly, and in consultation with the office of the attorney general, giving due consideration to security, may specify by rule all of the following:

Sec. 189. Section 595.13, Code 2001, is amended to read as follows:

595.13 CERTIFICATE — RETURN.

After the marriage has been solemnized, the officiating minister or magistrate shall attest to the marriage on the blank provided for that purpose and return the certificate of marriage within fifteen days to the county registrar who issued the marriage license ~~upon the blank provided for that purpose~~.

Sec. 190. Section 633.568, Code 2001, is amended to read as follows:

633.568 NOTICE TO PROPOSED WARD.

1. a. If the proposed ward is an adult, notice of the filing of the petition shall be served upon the proposed ward in the manner of an original notice and the content of the notice is governed by the rules of civil procedure governing original notice.

b. Except where the ward is the petitioner, notice shall also be served upon the ward's spouse. If the ward has no spouse, notice shall be served upon the ward's adult children, if any.

2. a. If the proposed ward is a minor or if the proposed ward is an adult under a standby petition and the court determines, pursuant to section 633.575, subsection 1, paragraph "b", that the proposed ward is entitled to representation, notice in the manner of original notice, or another form of notice ordered by the court, given to the attorney appointed to represent the ward is notice to the proposed ward.

b. Notice shall also be served upon ~~the~~:

(1) The parents of the proposed ward, if the ward is a minor.

(2) The spouse of the proposed ward, if the proposed ward is an adult. If the ward has no spouse, notice shall be serviced upon the proposed ward's adult children, if any.

3. Service of notice under this section upon persons other than the proposed ward shall be made upon such persons whose identities are reasonably ascertainable pursuant to section 633.40, subsection 5. Proof of service shall be made by affidavit, to which copies of all documents served shall be attached.

Sec. 191. Section 633.6202, subsection 2, paragraph o, Code 2001, is amended to read as follows:

o. Authorize or direct transfer ~~of~~ of a trust or trust property to or from another jurisdiction.

Sec. 192. Section 692A.7, subsection 1, Code 2001, is amended to read as follows:

1. A person required to register under this chapter who knowingly violates any requirements specified under sections 692A.2 through 692A.4 commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. However, a person required to register under this chapter who knowingly violates any of the requirements speci-

fied under sections 692A.2 through 692A.4 and who commits a criminal offense against a minor, sexual exploitation, an other relevant offense, or a sexually violent offense is guilty of a class "C" felony. Any fine imposed for a second or subsequent violation shall not be suspended. The court shall not defer judgment or sentence for any violation of any requirements specified under sections 692A.2 through 692A.4. A knowing violation of ~~by~~ a person, who is on probation, parole, work release, or any other form of release, ~~to comply with~~ of any requirements specified under sections 692A.2 through 692A.4 shall result in the automatic revocation of the person's probation, parole, or work release.

Sec. 193. Section 692A.13, subsection 3, paragraph c, subparagraph (1), Code 2001, is amended to read as follows:

(1) Persons who commit a criminal offense against a minor, an aggravated offense, sexual exploitation, a sexually violent offense, or an other relevant offense on or after ~~the effective date of this Act July 1, 1999,~~ and who have been assessed to be "moderate-risk" or "high-risk".

Sec. 194. Section 714.16, subsection 2, paragraph n, subparagraph (1), unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

It is an unlawful practice for a person to misrepresent the geographic location of a supplier ~~or~~ of a service or product by listing a fictitious business name or an assumed business name in a local telephone directory or directory assistance database if all of the following apply:

Sec. 195. Section 910.1, subsection 4, Code 2001, is amended to read as follows:

4. "Restitution" means payment of pecuniary damages to a victim in an amount and in the manner provided by the offender's plan of restitution. "Restitution" also includes fines, penalties, and surcharges, the contribution of funds to a local anticrime organization which provided assistance to law enforcement in an offender's case, the payment of crime victim compensation program reimbursements, payment of restitution to public agencies pursuant to section 321J.2, subsection 9, paragraph "b", court costs including correctional fees approved pursuant to section 356.7, court-appointed ~~attorney's attorney~~ fees, ~~or ordered pursuant to section 815.9, including~~ the expense of a public defender, and the performance of a public service by an offender in an amount set by the court when the offender cannot reasonably pay all or part of the court costs including correctional fees approved pursuant to section 356.7, court-appointed ~~attorney's attorney~~ fees, ~~or ordered pursuant to section 815.9, including~~ the expense of a public defender.

Sec. 196. Section 910.2, Code 2001, is amended to read as follows:

910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY SENTENCING COURT.

In all criminal cases in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of the offender's criminal activities, to the clerk of court for fines, penalties, surcharges, and, to the extent that the offender is reasonably able to pay, for crime victim assistance reimbursement, restitution to public agencies pursuant to section 321J.2, subsection 9, paragraph "b", court costs including correctional fees approved pursuant to section 356.7, court-appointed ~~attorney's attorney~~ fees ordered pursuant to section 815.9, including the expense of a public defender, when applicable, or contribution to a local anticrime organization. However, victims shall be paid in full before fines, penalties, and surcharges, crime victim compensation program reimbursement, public agencies, court costs including correctional fees approved pursuant to section 356.7, court-appointed ~~attorney's attorney~~ fees, ~~ordered pursuant to section 815.9, including~~ the expenses of a public defender, or contributions to a local anticrime organization are paid. In structuring a plan of restitution, the court shall provide for payments in the following order of priority: victim, fines, penalties, and surcharges, crime victim compensation program reimbursement, public agencies, court costs including correctional fees approved pursuant to section 356.7, court-appointed ~~attorney's attorney~~ fees, ~~or ordered pursuant to section 815.9, including~~ the expense of a public defender, and contribution to a local anticrime organization.

When the offender is not reasonably able to pay all or a part of the crime victim compensation program reimbursement, public agency restitution, court costs including correctional fees approved pursuant to section 356.7, court-appointed ~~attorney's attorney fees, ordered pursuant to section 815.9, including~~ the expense of a public defender, or contribution to a local anticrime organization, the court may require the offender in lieu of that portion of the crime victim compensation program reimbursement, public agency restitution, court costs including correctional fees approved pursuant to section 356.7, court-appointed ~~attorney's attorney fees, ordered pursuant to section 815.9, including the~~ expense of a public defender, or contribution to a local anticrime organization for which the offender is not reasonably able to pay, to perform a needed public service for a governmental agency or for a private nonprofit agency which provides a service to the youth, elderly, or poor of the community. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender which, for payment of court-appointed ~~attorney's attorney fees or ordered pursuant to section 815.9, including the~~ expenses of a public defender, shall be approximately equivalent in value to those costs. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

Sec. 197. Section 910.3, Code 2001, is amended to read as follows:

910.3 DETERMINATION OF AMOUNT OF RESTITUTION.

The county attorney shall prepare a statement of pecuniary damages to victims of the defendant and, if applicable, any award by the crime victim compensation program and expenses incurred by public agencies pursuant to section 321J.2, subsection 9, paragraph "b", and shall provide the statement to the presentence investigator or submit the statement to the court at the time of sentencing. The clerk of court shall prepare a statement of court-appointed ~~attorney's attorney fees, ordered pursuant to section 815.9, including~~ the expense of a public defender, and court costs including correctional fees claimed by a sheriff pursuant to section 356.7, which shall be provided to the presentence investigator or submitted to the court at the time of sentencing. If these statements are provided to the presentence investigator, they shall become a part of the presentence report. If pecuniary damage amounts are not available at the time of sentencing, the county attorney shall provide a statement of pecuniary damages incurred up to that time to the clerk of court. The statement shall be provided no later than thirty days after sentencing. If a defendant believes no person suffered pecuniary damages, the defendant shall so state. If the defendant has any mental or physical impairment which would limit or prohibit the performance of a public service, the defendant shall so state. The court may order a mental or physical examination, or both, of the defendant to determine a proper course of action. At the time of sentencing or at a later date to be determined by the court, the court shall set out the amount of restitution including the amount of public service to be performed as restitution and the persons to whom restitution must be paid. If the full amount of restitution cannot be determined at the time of sentencing, the court shall issue a temporary order determining a reasonable amount for restitution identified up to that time. At a later date as determined by the court, the court shall issue a permanent, supplemental order, setting the full amount of restitution. The court shall enter further supplemental orders, if necessary. These court orders shall be known as the plan of restitution.

Sec. 198. Section 910.9, unnumbered paragraph 3, Code 2001, is amended to read as follows:

Fines, penalties, and surcharges, crime victim compensation program reimbursement, public agency restitution, court costs including correctional fees claimed by a sheriff pursuant to section 356.7, court-appointed ~~attorney's attorney fees, and ordered pursuant to section 815.9, including the~~ expenses for public defenders, shall not be withheld by the clerk of court until all victims have been paid in full. Payments to victims shall be made by the clerk of court at least quarterly. Payments by a clerk of court shall be made no later than the last business day of the quarter, but may be made more often at the discretion of the clerk of court. The clerk of court receiving final payment from an offender shall notify all victims that full restitution

has been made. Each office or individual charged with supervising an offender who is required to perform community service as full or partial restitution shall keep records to assure compliance with the portions of the plan of restitution and restitution plan of payment relating to community service and, when the offender has complied fully with the community service requirement, notify the sentencing court.

Sec. 199. Sections 444.25A, 444.25B, 444.26, and 444.27, Code 2001, are repealed.

Sec. 200. 2000 Iowa Acts, chapter 1148, section 1, is amended to read as follows:

SECTION 1. COUNTY SYSTEM FOR DATA STORAGE AND RETRIEVAL.

1. Chapters 6B, ~~10A~~, 11, 12B, ~~24~~, 35B, 43, 50, 62, 64, 65, 66, 69, 96, 99, ~~124C~~, ~~144~~, 147, 161A, 177A, 230, 257B, 306, ~~309~~, 311, 317, 321A, 347B, 353, 354, 357, 357C, ~~357D~~, ~~357E~~, ~~357F~~, ~~357G~~, 358, 358C, 359, 359A, 380, 384, 386, 420, 422, 424, 425, 426A, 428, 433, 434, 435, 436, 437, 437A, 438, 440, 441, 443, 444, 448, 449, ~~455I~~, 468, 556F, 557C, 558, 561, 595, 614, ~~and 658, and 717B~~, Code 1999 and Code Supplement 1999, are amended by adding the following new definition:

NEW DEFINITION. As used in this chapter, unless the context otherwise requires, “list”, “book”, “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. The Code editor is directed to ~~add the definition prescribed in subsection 1 to the definition sections of, for each chapter listed or, if a definition section does not exist, to create a definition section including the definition prescribed in subsection 1 for the chapter in the Code of Iowa, 2001.~~

Sec. 201. 2000 Iowa Acts, chapter 1148, is amended by adding the following new sections:

SEC. 1A. COUNTY SYSTEM FOR DATA STORAGE AND RETRIEVAL.

1. Sections 10A.101, 24.2, 124C.1, 144.1, 161A.3, 306.2, 309.1, 321A.1, 354.2, 357D.1, 357E.1, 357F.1, 357G.1, 358C.1, 386.1, 422.3, 424.2, 437.1, 437A.3, and 455I.1, Code 1999 and Code Supplement 1999, are amended by adding the following new definition:

NEW DEFINITION. “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. The Code editor is directed to add the definition prescribed in subsection 1 to the definitions in each section listed for the Code of Iowa, 2001.

SEC. 1B. COUNTY SYSTEM FOR DATA STORAGE AND RETRIEVAL.

1. Sections 425.11, 435.1, and 717B.1, Code 1999 and Code Supplement 1999, are amended by adding the following new definition:

NEW DEFINITION. 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. The Code editor is directed to add the definition prescribed in subsection 1 to the definitions in each section listed for the Code of Iowa, 2001.

Sec. 202. 2000 Iowa Acts, chapter 1228, section 37, is amended to read as follows:

SEC. 37. 1991 Iowa Acts, chapter 169, section 9, as amended by 1996 Iowa Acts, chapter 1071, section 1, is repealed.

On or before December 15, 2000, the prevention of disabilities policy council shall submit a report to the governor and the general assembly providing findings and recommendations regarding the activities and duties of the ~~commission~~ council and the need for its continuation.

DIVISION III

Sec. 203. EFFECTIVE DATES.

1. The section of this Act amending section 14B.105, subsection 1, paragraph b, unnumbered paragraph 1, being deemed of immediate importance, takes effect upon enactment and applies retroactively to April 25, 2000.

2. The section of this Act amending section 714.16, subsection 2, paragraph n, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 2000.

3. The section of this Act amending 2000 Iowa Acts, chapter 1228, section 37, being deemed of immediate importance, takes effect upon enactment and applies retroactively to May 17, 2000.

Approved April 22, 2002

CHAPTER 1120

MENTAL HEALTH AND DEVELOPMENTAL DISABILITY SERVICES

H.F. 2416

AN ACT relating to mental health and developmental disability services requirements and providing an effective date.

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

DIVISION I WAIVER SERVICES

Section 1. Section 135C.6, subsection 8, Code 2001, is amended to read as follows:

8. ~~The following residential programs to which the department of human services applies accreditation, certification, or standards of review shall not be required to be licensed as a health care facility under this chapter:~~

a. ~~A residential program which provides~~ Residential programs providing care to not more than four individuals and ~~receives~~ receiving moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with mental retardation or other medical assistance program under chapter 249A ~~shall not be required to be licensed as a health care facility under this chapter.~~ In approving a residential program under this ~~paragraph~~ subsection, the department of human services shall consider the geographic location of the program so as to avoid an overconcentration of such programs in an area. In order to be approved under this ~~paragraph~~ subsection, a residential program shall not be required to involve the conversion of a licensed residential care facility for persons with mental retardation.

b. ~~A total of forty residential care facilities for persons with mental retardation which are licensed to serve no more than five individuals may be authorized by the department of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with mental retardation. A converted residential program is subject to the conditions stated in paragraph "a" except that the program shall not serve more than five individuals. The department of human services shall allocate conversion authorizations to provide for eight conversions in each of the department's five service regions.~~

Sec. 2. Section 249A.20, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A provider reimbursed under section 249A.31 is not a noninstitutional health provider.

Sec. 3. Section 249A.26, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The county of legal settlement shall pay for one hundred percent of the nonfederal share of the cost of services provided to persons with chronic mental illness implemented under the adult rehabilitation option of the state medical assistance plan. The state shall pay for one hundred percent of the nonfederal share of the cost of such services provided to such persons without a county of legal settlement.

Sec. 4. Section 249A.29, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

For purposes of this section and section 249A.30 unless the context otherwise requires:

Sec. 5. **NEW SECTION.** 249A.30 HOME AND COMMUNITY-BASED WAIVER SERVICES REIMBURSEMENT.

1. The base reimbursement rate for a provider of services under a medical assistance program home and community-based waiver for persons with mental retardation shall be recalculated at least every three years to adjust for the changes in costs during the immediately preceding three-year period.

2. The annual inflation factor used to adjust such a provider's reimbursement rate for a fiscal year shall not exceed the percentage increase in the employment cost index for private industry compensation issued by the federal department of labor, bureau of labor statistics, for the most recently completed calendar year.

Sec. 6. **NEW SECTION.** 249A.31 COST-BASED REIMBURSEMENT — MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES PROVIDERS.

All of the following shall receive cost-based reimbursement for one hundred percent of the reasonable costs for the provision of services to recipients of medical assistance:

1. Providers of individual case management services for persons with mental retardation, a developmental disability, or chronic mental illness in accordance with standards adopted by the mental health and developmental disabilities commission pursuant to section 225C.6.

2. Providers of services to persons with chronic mental illness implemented under the adult rehabilitation option of the state medical assistance plan.

Sec. 7. **RULES.**

1. The department of human services and the mental health and developmental disabilities commission shall adopt new rules or amend or repeal existing rules so that services provided to a person with a developmental disability under provisions of a federally approved medical assistance home and community-based services waiver for persons with mental retardation, supported community living services, and any other funding or program providing support to persons with a developmental disability allows for residential programs to serve at least four individuals or the number of individuals authorized by an exception to policy approved by the department. The rules to be amended or repealed shall include but are not limited to all of the following:

a. Supported community living services under 441 IAC 78.41(1)(c). In addition, the restrictions in 441 IAC 78.41(1)(d), providing that no more than eight consumers shall reside in settings with a maximum of four living units and requiring that in larger settings the majority of living units must be occupied by individuals who do not have a disability, shall be eliminated.

b. Supported community living services providers under 441 IAC 77.37(14)(e), relating to restrictions on the number of supported community living recipients that may be provided for in a living unit.

2. The department of human services and the mental health and developmental disabilities commission shall adopt new rules or amend or repeal existing rules so that services provided under provisions of a federally approved medical assistance home and community-based services waiver for persons with mental retardation allow children who are sixteen years of age

or older to utilize supported community living services for community vocational training and support. In developing the rules, the department and commission shall consult with the department of education, division of vocational rehabilitation services and area education agencies to determine the best approach or approaches to meet the needs of such children for community vocational training and support throughout the school year and summer while maintaining coverage of the training and support under the medical assistance program. The rules shall take effect on or before September 30, 2002.

Sec. 8. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to sections 249A.29 and 249A.30 as amended or enacted by this division of this Act.

Sec. 9. EFFECTIVE DATE. The provisions of this division of this Act amending and enacting sections 249A.20, 249A.26, and 249A.31, being deemed of immediate importance, take effect upon enactment.

DIVISION II
INTERMEDIATE CARE FACILITIES
FOR PERSONS WITH MENTAL RETARDATION

Sec. 10. Section 135.63, subsection 4, Code 2001, is amended to read as follows:

4. ~~For the period beginning July 1, 1995, and ending June 30, 1998, the A copy of the application shall be sent to the department of human services at the time the application is submitted to the Iowa department of public health. The department shall not process applications for and the council shall not consider a new or changed institutional health service for an intermediate care facility for persons with mental retardation except as provided in this subsection. unless both of the following conditions are met:~~

a. ~~For the period beginning July 1, 1995, and ending June 30, 1998, the department and council shall process applications and consider applications if either of the following conditions are met:~~

(1) ~~An institutional health facility is reducing the size of the facility's intermediate care facility for the persons with mental retardation program and wishes to convert an existing number of the facility's approved beds in that program to smaller living environments in accordance with state policies in effect regarding the size and location of such facilities.~~

(2) ~~An institutional health facility proposes to locate a new intermediate care facility for persons with mental retardation in an area of the state identified by the department of human services as underserved by intermediate care facility beds for persons with mental retardation.~~

b. ~~Both of the following requirements shall apply to an application considered under this section:~~

(1) ~~a. The new or changed beds shall not result in an increase in the total number of medical assistance certified intermediate care facility beds for persons with mental retardation in the state as of July 1, 1994, exclusive of those beds at the state resource centers or other state institutions, beyond one thousand six hundred thirty-six beds.~~

(2) ~~b. A letter of support for the application is provided by the director of human services and the county board of supervisors, or the board's designee, in the county in which the beds would be located.~~

Sec. 11. Section 135.64, subsection 4, Code 2001, is amended by striking the subsection.

Sec. 12. ICFMR CERTIFICATE OF NEED — FY 2002-2003 IMPLEMENTATION. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, the health facilities council shall not approve applications for new or changed institutional health service resulting in more than ten new or changed beds for the intermediate care facility for persons with mental retardation classification.

DIVISION III
COMMUNITY MENTAL HEALTH CENTERS

Sec. 13. MEDICAL ASSISTANCE PROVIDER REQUIREMENTS. Effective July 1, 2002, the department of human services shall revise the medical assistance provider requirements applicable to community mental health centers in the department's policy manuals to implement all of the following:

1. Revision of the condition of payment provision relating to services provided by a mental health professional and requiring an initial evaluation to include at least one personal interview with a psychiatrist. Under the revision, a mental health professional, as defined in section 228.1, must conduct a patient's initial evaluation interview and if the evaluation results indicate a need for a referral for an interview with a psychiatrist, then such a referral shall be required.

2. Elimination of requirements for holding a patient staffing meeting within four weeks following the date of the patient's initial evaluation interview and for subsequently holding patient staffing meetings every four months. Instead, the purpose of these requirements shall be achieved through the peer review process in effect for community mental health centers.

3. Make conforming amendments to policy manuals as necessary to implement subsections 1 and 2.

DIVISION IV
EMERGENCY RULES

Sec. 14. EMERGENCY RULES. Rules adopted, amended, or repealed pursuant to this Act shall be processed as emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", and the rules shall be 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 date is specified in the rules. Any rules adopted, amended, or repealed pursuant to this Act shall not take effect before the rules are reviewed by the administrative rules review committee. Any rules adopted, amended, or repealed pursuant to this Act shall also be published as a notice of intended action as provided in section 17A.4.

Approved April 22, 2002

CHAPTER 1121

TIRE AND WASTE TIRE INITIATIVES —
MANAGEMENT, REGULATION, AND USE OF FUNDS

H.F. 2554

AN ACT relating to the use of moneys appropriated to the department of natural resources for purposes of tire-related initiatives, disposal fees charged by retail tire dealers, and the registration of waste tire haulers and providing an effective date.

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

Section 1. Section 321.52A, subsection 2, Code Supplement 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, 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 through the fiscal year beginning July 1, 2006, the treasurer of state shall deposit twenty percent of the moneys received under subsection 1 in the waste tire management fund and deposit the remainder in the road use tax fund. For the fiscal year beginning July 1, 2007, 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. 2. Section 455D.11, subsection 7, paragraphs a and c, Code 2001, are amended to read as follows:

a. That a person who contracts with another person to transport more than forty waste tires is required to contract only with a person registered as a waste tire hauler pursuant to section ~~9B.1 455D.11I~~.

c. A person who does not comply with this subsection is subject to the penalty imposed pursuant to section ~~9B.1 455D.11I~~ and the moneys allocated shall be deposited and used pursuant to section ~~9B.1 455D.11I~~.

Sec. 3. Section 455D.11H, Code 2001, is amended to read as follows:
455D.11H FUTURE REPEAL.

Sections 455D.11C, 455D.11D, 455D.11E, 455D.11F, ~~455D.11G~~, and this section are repealed effective July 1, 2002 2007.

Sec. 4. NEW SECTION. 455D.11I REGISTRATION OF WASTE TIRE HAULERS — BOND — PENALTY.

1. For the purposes of this section, “waste tire hauler” means a person who transports for hire more than forty waste tires in a single load for commercial purposes.

2. A waste tire hauler shall register with, and obtain a certificate of registration from, the department before hauling waste tires in this state. Requirements for registration of a waste tire hauler shall include a provision that waste tire haulers shall pay all amounts due to any individual or group of individuals when due for damages caused by improper disposal of waste tires by the waste tire hauler or the waste tire hauler’s employee while acting within the scope of employment. The waste tire hauler may apply for a certificate of registration by submitting the forms provided for that purpose and shall provide the name of the applicant and the address of the applicant’s principal place of business and any additional information as deemed appropriate by the department.

3. A certificate of registration issued under this section is valid for one year from the date of issuance. A registered waste tire hauler may renew the certificate by filing a renewal application in the form prescribed by the department, accompanied by any applicable renewal fee.

4. A certificate of registration shall at all times be carried and displayed in the vehicle used for transportation of waste tires and shall be shown to a representative of the department of natural resources or the state department of transportation, upon request. The state department of transportation may inspect vehicles used for the transportation of waste tires and request that the certificate of registration of the waste tire hauler be shown, upon request.

5. The department shall establish a reasonable registration fee sufficient to offset expenses incurred in the administration of this section.

6. The department shall require that a waste tire hauler have on file with the department before the issuance or renewal of a registration certificate, a surety bond executed by a surety company authorized to do business in this state in the sum of a minimum of ten thousand dollars, which bond shall be continuous in nature until canceled by the surety. A surety shall provide at least thirty days' notice in writing to the waste tire hauler and to the department indicating the surety's intent to cancel the bond and the effective date of the cancellation. The surety bond shall be for the benefit of the citizens of this state and shall be conditioned upon the waste tire hauler's willingness to comply with this section. The surety's liability under this subsection is limited to the amount of the bond or the amount of the damages or moneys due, whichever is less. However, this subsection does not limit the amount of damages recoverable from a waste tire hauler to the amount of the surety bond. The bond shall be made in a form prescribed by the commissioner of insurance and written by a company authorized by the commissioner of insurance to do business in this state.

7. The department shall adopt rules including imposition of civil penalties necessary for the implementation and administration of this section.

8. A person who knowingly and willfully violates a provision of this section is subject to a civil penalty in an amount not to exceed ten thousand dollars. Moneys collected from the penalties imposed shall be deposited in the waste volume reduction and recycling fund established pursuant to section 455D.15.

Sec. 5. WASTE TIRES. If moneys are appropriated, during the 2002 Regular Session of the Seventy-ninth General Assembly, to the department of natural resources for purposes of tire initiatives for the fiscal year beginning July 1, 2002, the moneys shall be used for the following purposes and in the following amounts:

1. Thirty-two percent of the moneys appropriated shall be used for each of the following positions:

a. One full-time equivalent position for the administration of permits and registrations for tire processing, storage, and hauling activities, and tire program initiatives.

b. One and one-half full-time equivalent positions for compliance checks and inspections. The 1.50 full-time equivalent positions under this paragraph shall be divided equally between the field offices in the state.

2. Eighteen percent of the moneys appropriated shall be used for a public education and awareness initiative related to proper tire disposal options and environmental and health hazards posed by improper tire storage.

3. Thirty percent of the moneys appropriated shall be used for market development initiatives for waste tires.

4. Fifteen percent of the moneys appropriated shall be used for a waste tire stockpile abatement initiative which would require a cost-share agreement with the landowner.

5. Five percent of the moneys appropriated shall be used for a study on the west Nile virus including where the virus is located in the state, how the virus might spread, where the virus might spread, and how the virus may mitigate. These moneys may be carried forward to the fiscal years beginning July 1, 2003, and July 1, 2004.

Sec. 6. Section 9B.1, Code 2001, is repealed.

Sec. 7. EFFECTIVE DATE. The section of this Act amending section 455D.11H, being deemed of immediate importance, takes effect upon enactment.

Approved April 22, 2002

CHAPTER 1122

SALES AND USE TAXES — LEGISLATIVE SERVICE BUREAU SALES AND ON-LINE COMPUTER SERVICE ACCESS CHARGES

H.F. 2585

AN ACT relating to a sales and use tax exemption for sales of certain mementos and other objects by the legislative service bureau and its legislative information office and to the abatement of state sales and use taxes and local sales and service taxes of purchasers of certain access to on-line computer services and providing refunds, and including effective and applicability date provisions.

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

Section 1. **NEW SECTION. 2.67 OFFICIAL SALES — TAX EXEMPTION.**

The legislative service bureau and its legislative information office may sell mementos and other items relating to Iowa history and historic sites, the general assembly, and the state capitol, on the premises of property under the control of the legislative council, at the state capitol, and on other state property. The legislative service bureau and its legislative information office are not retailers under chapter 422 and the sale of such mementos and other such items by the legislative service bureau or its legislative information office is not a retail sale under chapter 422, division IV, and is exempt from the sales tax.

Sec. 2. Section 421.60, subsection 2, paragraph m, subparagraphs (2) and (3), Code 2001, are amended to read as follows:

(2) The director shall abate the unpaid state sales and use taxes and any local sales and services taxes owed by a retailer where the retailer failed to collect the tax from the purchaser on the charges paid for access to on-line computer services as a result of erroneous written advice issued by the department regarding the taxability of charges paid for access to on-line computer services. To qualify for the abatement under this subparagraph, the erroneous written advice shall have been issued by the department prior to July 1, 1999, and shall have been specially directed to the retailer by the department.

If an abatement of unpaid state sales and use taxes and any local sales and services taxes is granted to the retailer by the director pursuant to this subparagraph, the department is precluded from collecting from the purchaser any unpaid state sales and use taxes and any local sales and services taxes which were abated.

(3) The director shall prepare quarterly reports summarizing each case in which abatement of tax, interest, or penalties was made. However, the report shall not disclose the identity of the taxpayer. An abatement authorized by this paragraph to a retailer shall not preclude the department from proceeding to collect the liability from a purchaser, except as provided in subparagraph (2).

Sec. 3. **REFUNDS.** Refunds of taxes, interest, or penalties which arise from claims resulting from the amendment to section 421.60, subsection 2, paragraph “m”, subparagraphs (2) and (3), in this Act, for sales on which the state sales and use taxes and any local sales and ser-

vices taxes were abated pursuant to section 421.60, subsection 2, paragraph “m”, subparagraph (2), shall be paid to the eligible purchasers by the department of revenue and finance by October 1, 2002, without the purchasers having to file claims for refunds. The department of revenue and finance shall make a reasonable attempt to identify each eligible purchaser and mail the refund to the purchaser’s last known address.

Sec. 4. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment. Section 2 of this Act applies to state sales and use taxes and any local sales and services taxes due on charges paid for access to on-line computer services on or after January 1, 1996, which were abated with regard to a retailer pursuant to section 421.60, subsection 2, paragraph “m”, subparagraph (2).

Approved April 22, 2002

CHAPTER 1123

START-UP BUSINESSES — TAXABLE INCOME DEFERMENT

H.F. 2592

AN ACT relating to deferment of taxable income for start-up businesses and providing an effective and retroactive applicability date.

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

Section 1. **NEW SECTION. 422.24A START-UP BUSINESS TAX DEFERMENT.**

1. For purposes of this section, “start-up business” does not include any of the following:
 - a. An existing business locating in this state from another state or from another location in this state.
 - b. A newly created business which is the result of the merger of two or more businesses.
 - c. A newly created subsidiary or new business of a corporation.
 - d. A previously existing business which has been dissolved and reincorporated.
 - e. An existing business operating under a different name and located in a different location.
 - f. A newly created partnership owned by two or more of the same partners as an existing business and engaging in similar business activity as the existing business.
 - g. A business entity that reorganizes or experiences a change in either the legal or trade name of the business.
 - h. A joint venture.
2. In order to qualify for a deferment of taxable income and the tax to be imposed on it pursuant to this section, a taxpayer must meet all of the following criteria:
 - a. The taxpayer is a business that is a wholly new start-up business beginning operations during the first tax year for which the deferment of taxable income is claimed.
 - b. The business has its commercial domicile, as defined in section 422.32, in the state.
 - c. The operations of the business are at least twenty-five percent funded by venture capital moneys. For purposes of this section, “venture capital moneys” means an equity investment from an individual or a private seed and venture capital fund whose only business is investing in seed and venture capital opportunities. “Venture capital moneys” does not mean a loan or other nonequity financing from a person, financial institution, or other entity.
 - d. The taxpayer does not have any delinquent taxes or other debt outstanding and owed to the state.
3. A taxpayer meeting the criteria provided in subsection 2 may submit a request to the de-

partment for the deferment of taxable income for the first three tax years that the taxpayer business is in operation. If a deferment is approved by the department pursuant to subsection 4, the taxpayer shall pay taxes on the deferred taxable income in five equal annual installments during the five tax years following the three years of taxable income deferment. Section 422.26 shall apply if the taxpayer refuses or neglects to pay the taxes owed on the deferred taxable income in the manner provided in this section. A taxpayer receiving a deferment shall file a return for each tax year in which a deferment is approved. If the taxpayer has a net loss during a tax year during the three-year period in which taxable income is deferred, the loss may be applied to any deferred taxable income during that period.

4. Upon a determination that the criteria provided in subsection 2 have been met, the department shall approve a request for deferment of taxable income.

5. For purposes of assessing penalty and interest, the tax on any deferred taxable income is not due and payable until the tax years in which the annual installments as provided in subsection 3 are due and payable.

6. The department shall adopt rules pursuant to chapter 17A necessary for the administration of this section.

Sec. 2. **EFFECTIVE AND APPLICABILITY DATES.** This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2002.

Approved April 22, 2002

CHAPTER 1124

CHARTER SCHOOLS

S.F. 348

AN ACT relating to the establishment of Iowa charter schools and providing for a conditional effective date.

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

Section 1. **NEW SECTION.** 256F.1 AUTHORIZATION AND PURPOSE.

1. Charter schools shall be part of the state's program of public education.
2. A charter school may be established by creating a new school within an existing public school or converting an existing public school to charter status.
3. The purpose of a charter school established pursuant to this chapter shall be to accomplish the following:
 - a. Improve student learning.
 - b. Increase learning opportunities for students.
 - c. Encourage the use of different and innovative methods of teaching.
 - d. Require the measurement of learning outcomes and create different and innovative forms of measuring outcomes.
 - e. Establish new forms of accountability for schools.
 - f. Create new professional opportunities for teachers and other educators, including the opportunity to be responsible for the learning program at the school site.

Sec. 2. **NEW SECTION.** 256F.2 DEFINITIONS.

1. "Advisory council" means a council appointed by the school board of directors of a charter school pursuant to section 256F.5, subsection 4.

2. "Attendance center" means a public school building that contains classrooms used for instructional purposes for elementary, middle, or secondary school students.
3. "Charter school" means a state public charter school operated as a pilot program.
4. "Department" means the department of education.
- 4A. "Pilot program" means a pilot program created under this chapter that creates a new school within an existing public school or converts an existing public school to charter status in accordance with this chapter.
5. "School board" means a board of directors regularly elected by the registered voters of a school district.
6. "State board" means the state board of education.

Sec. 3. NEW SECTION. 256F.3 PILOT PROGRAM — APPLICATION.

1. Commencing with the school year beginning July 1, 2002, the state board of education shall initiate a pilot program to test the effectiveness of charter schools.

2. To receive approval to establish a charter school in accordance with this chapter, the principal, teachers, or parents or guardians of students at an existing public school shall submit an application to the school board to convert an existing attendance center to a charter school. An attendance center shall not enter into a charter school contract with a school district under this chapter unless the attendance center is located within the school district. The application shall demonstrate the support of at least fifty percent of the teachers employed at the school on the date of the submission of the application and fifty percent of the parents or guardians voting whose children are enrolled at the school, provided that a majority of the parents or guardians eligible to vote participate in the ballot process, according to procedures established by rules of the state board. A parent or guardian voting in accordance with this subsection must be a resident of this state.

3. A school board shall receive and review all applications for converting an existing building or creating a new building for a charter school. Applications received on or before October 1 of a calendar year shall be considered for charter schools to be established at the beginning of the school district's next school year or at a time agreed to by the applicant and the school board. However, a school board may receive and consider applications after October 1 at its discretion.

4. A school board shall by a majority vote approve or deny an application no later than sixty calendar days after the application is received. An application approved by a school board and subsequently approved by the state board pursuant to subsection 6 shall constitute, at a minimum, an agreement between the school board and the charter school for the operation of the charter school. A school board that denies an application for a conversion to a charter school shall provide notice of denial to the applicant in writing within thirty days after board action. The notice shall specify the exact reasons for denial and provide documentation supporting those reasons.

5. An applicant may appeal school board denial of the applicant's charter school application to the state board in accordance with the procedures set forth in chapter 290. The state board shall affirm, modify, or reverse the school board's decision on the basis of the information provided in the application indicating the ability and willingness of the proposed charter school to meet the requirements of section 256F.1, subsection 3, and section 256F.4.

6. Upon approval of an application for the proposed establishment of a charter school, the school board shall submit an application for approval to establish the charter school to the state board in accordance with section 256F.5. The application shall set forth the manner in which the charter school will provide special instruction, in accordance with section 280.4, to students who are limited English proficient. The application shall set forth the manner in which the charter school will comply with federal and state laws and regulations relating to the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. § 1751-1785, and chapter 283A. The state board shall approve only those applications that meet the requirements specified in section 256F.1, subsection 3, and sections 256F.4 and 256F.5. The state board may deny an application if the state board deems that approval of the

application is not in the best interest of the affected students. The state board shall approve not more than ten charter school applications. The state board shall approve not more than one charter school application per school district. However, if the state board receives ten or fewer applications as of June 30, 2003, and two or more of the applications received by the state board by that date are submitted by one school district, the state board may approve any or all of the applications submitted by the school district. The state board shall adopt rules in accordance with chapter 17A for the implementation of this chapter.

7. If federal rules or regulations relating to the distribution or utilization of federal funds allocated to the department pursuant to this section are adopted that are inconsistent with the provisions of this chapter, the state board shall adopt rules to comply with the requirements of the federal rules or regulations. The state board shall identify inconsistencies between federal and state rules and regulations as provided in this subsection and shall submit recommendations for legislative action to the chairpersons and ranking members of the senate and house standing committees on education at the next meeting of the general assembly.

Sec. 4. NEW SECTION. 256F.4 GENERAL OPERATING REQUIREMENTS.

1. Within fifteen days after approval of a charter school application submitted in accordance with section 256F.3, subsection 2, a school board shall report to the department the name of the charter school applicant entry,¹³ the proposed charter school location, and its projected enrollment.

2. Although a charter school may elect to comply with one or more provisions of statute or administrative rule, a charter school is exempt from all statutes and rules applicable to a school, a school board, or a school district, except that the charter school shall do all of the following:

a. Meet all applicable federal, state, and local health and safety requirements and laws prohibiting discrimination on the basis of race, creed, color, sex, national origin, religion, ancestry, or disability. A charter school shall be subject to any court-ordered desegregation plan in effect for the school district at the time the school's charter application is approved.

b. Operate as a nonsectarian, nonreligious public school.

c. Be free of tuition and application fees to Iowa resident students between the ages of five and twenty-one years.

d. Be subject to and comply with chapters 216 and 216A relating to civil and human rights.

e. Provide special education services in accordance with chapter 256B.

f. Be subject to the same financial audits, audit procedures, and audit requirements as a school district. The audit shall be consistent with the requirements of sections 11.6, 11.14, 11.19, 256.9, subsection 19, and section 279.29, except to the extent deviations are necessary because of the program at the school. The department, the auditor of state, or the legislative fiscal bureau may conduct financial, program, or compliance audits.

g. Be subject to and comply with chapter 284 relating to the student achievement and teacher quality program. A charter school that complies with chapter 284 shall receive state moneys or be eligible to receive state moneys as provided in chapter 284 as if it did not operate under a charter.

h. Be subject to and comply with chapters 20 and 279 relating to contracts with and discharge of teachers and administrators.

i. Be subject to and comply with the provisions of chapter 285 relating to the transportation of students.

j. Meetings of the advisory council are subject to the provisions of chapters 21 and 22.

3. A charter school shall not discriminate in its student admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, or status as a person with a disability. However, a charter school may limit admission to students who are within a particular range of age or grade level¹⁴ or on any other basis that would be legal if initiated by a school district. Enrollment priority shall be given to the siblings of students enrolled in a charter school.

4. A charter school shall enroll an eligible resident student who submits a timely application

¹³ See chapter 1175, §81 herein

¹⁴ See chapter 1175, §81 herein

unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students must be accepted by lot. A charter school may enroll an eligible nonresident student who submits a timely application in accordance with the student admission policy established pursuant to section 256F.5, subsection 1. If the charter school enrolls an eligible nonresident student, the charter school shall notify the school district and the sending district not later than March 1 of the preceding school year. Transportation for the student shall be in accordance with section 282.18, subsection 10. The sending district shall make payments to the charter school in the manner required under section 282.18, subsection 7.

5. A charter school shall provide instruction for at least the number of days required by section 279.10, subsection 1, or shall provide at least the equivalent number of total hours.

6. Notwithstanding subsection 2, a charter school shall meet the requirements of section 256.7, subsection 21.

7. A charter school shall be considered a part of the school district in which it is located for purposes of state school foundation aid pursuant to chapter 257.

8. A charter school may enter into contracts in accordance with chapter 73A.

Sec. 5. NEW SECTION. 256F.5 APPLICATION — DEFINITION.

An application to the state board for the approval of a charter school shall include, but shall not be limited to, a description of the following:

1. The method for admission to the charter school.
2. The mission, purpose, innovation, and specialized focus of the charter school.
3. Performance goals and objectives in addition to those required under section 256.7, subsection 21, by which the school's student achievement shall be judged, the measures to be used to assess progress, and the current baseline status with respect to the goals.
4. The method for appointing or forming an advisory council for the charter school. The membership of an advisory council appointed or formed in accordance with this chapter shall not include more than one member of the school board.
5. Procedures for teacher evaluation and professional development for teachers and administrators.
6. The charter school governance and bylaws.
7. The financial plan for the operation of the school including, at a minimum, a listing of the support services the school district will provide, and the charter school's revenues, budgets, and expenditures.
8. The educational program and curriculum, instructional methodology, and services to be offered to students.
9. The number and qualifications of teachers and administrators to be employed.
10. The organization of the school in terms of ages of students or grades to be taught along with an estimate of the total enrollment of the school.
11. The provision of school facilities.
12. A statement indicating how the charter school will meet the requirements of section 256F.1, subsection 3; section 256F.4, subsection 2, paragraph "a"; and section 256F.4, subsection 3.
13. Assurance of the assumption of liability by the charter school.
14. The types and amounts of insurance coverage to be obtained by the charter school.
15. A plan of operation to be implemented if the charter school revokes or fails to renew its contract.
16. The means, costs, and plan for providing transportation for students attending the charter school.
17. The specific statutes, administrative rules, and school board policies with which the charter school does not intend to comply.

Sec. 6. NEW SECTION. 256F.6 CONTRACT.

1. An approved charter school application shall constitute an agreement, the terms of which

shall, at a minimum, be the terms of a four-year enforceable, renewable contract between the school board and the state board. The contract shall include an operating agreement for the operation of the charter school. The terms of the contract may be revised at any time with the approval of both the state board and the school board, whether or not the stated provisions of the contract are being fulfilled. The charter school shall provide parents and guardians of students enrolled in the charter school with a copy of the charter school application approved pursuant to section 256F.5.

2. The contract shall outline the reasons for revocation or nonrenewal of the charter.

3. The state board of education shall provide by rule for the ongoing review of a school board's compliance with a contract entered into in accordance with this chapter.

Sec. 7. NEW SECTION. 256F.7 EMPLOYMENT AND RELATED MATTERS.

1. A charter school shall employ or contract with necessary teachers and administrators, as defined in section 272.1, who hold a valid license with an endorsement for the type of service for which the teacher or administrator is employed.

2. The school board, in consultation with the advisory council, shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

3. Employees of a charter school shall be considered employees of the school district.

Sec. 8. NEW SECTION. 256F.8 PROCEDURES FOR REVOCATION OR NONRENEWAL OF CONTRACT.

1. A contract for the establishment of a charter school may be revoked by the state board or the school board that established the charter school if the appropriate board determines that one or more of the following occurred:

a. Failure of the charter school to abide by and meet the provisions set forth in the contract, including educational goals.

b. Failure of the charter school to comply with all applicable law.

c. Failure of the charter school to meet generally accepted public sector accounting principles.

d. The existence of one or more other grounds for revocation as specified in the contract.

2. The decision by a school board to revoke or to fail to take action to renew a charter school contract is subject to appeal under procedures set forth in chapter 290.

3. A school board considering revocation or nonrenewal of a charter school contract shall notify the advisory council, the parents or guardians of the students enrolled in the charter school, and the teachers and administrators employed by the charter school, sixty days prior to revoking or the date by which the contract must be renewed, but not later than the last day of classes in the school year.

4. If the state board determines that a charter school is in substantial violation of the terms of the contract, the state board shall notify the school board and the advisory council of its intention to revoke the contract at least sixty days prior to revoking a contract and the school board shall assume oversight authority, operational authority, or both oversight and operational authority. The notice shall state the grounds for the proposed action in writing and in reasonable detail. The school board may request in writing an informal hearing before the state board within fourteen days of receiving notice of revocation of the contract. Upon receiving a timely written request for a hearing, the state board shall give reasonable notice to the school board of the hearing date. The state board shall conduct an informal hearing before taking final action. Final action to revoke a contract shall be taken in a manner least disruptive to students enrolled in the charter school. The state board shall take final action to revoke or approve continuation of a contract by the last day of classes in the school year. If the final action to revoke a contract under this section occurs prior to the last day of classes in the school year, a charter school student may enroll in the resident district.

5. The decision of the state board to revoke a contract under this section is solely within the discretion of the state board and is final.

6. A school board revoking a contract or a school board or advisory council that fails to renew a contract under this chapter is not liable for that action to the charter school, a student enrolled in the charter school or the student's parent or guardian, or any other person.

7. In the case of a revocation or a nonrenewal of the charter, the school board is exempt from the state board's "Barker guidelines", as provided in 1 D.P.I. App. Dec. 145 (1977).

Sec. 9. NEW SECTION. 256F.9 PROCEDURES AFTER REVOCATION — STUDENT ENROLLMENT.

If a charter school contract is revoked in accordance with this chapter, a nonresident student who attended the school, and any siblings of the student, shall be determined to have shown good cause as provided in section 282.18, subsection 16, and may submit an application to another school district according to section 282.18 at any time. Applications and notices required by section 282.18 shall be processed and provided in a prompt manner. The application and notice deadlines in section 282.18 do not apply to a nonresident student application under these circumstances.

Sec. 10. NEW SECTION. 256F.10 REPORTS.

1. A charter school shall report at least annually to the school board, advisory council, and the state board the information required by the school board, advisory council, or the state board. The reports are public records subject to chapter 22.

2. Not later than December 1, 2003, and annually thereafter, the state board shall submit a comprehensive report, with findings and recommendations, to the senate and house standing committees on education. The report shall evaluate the state's charter school programs generally, including but not limited to, an evaluation of whether the pilot programs are fulfilling the purposes set forth in section 256F.4, subsection 2. The report also shall contain, for each charter school, a copy of the charter school's mission statement, attendance statistics and dropout rate, aggregate assessment test scores, projections of financial stability, the number and qualifications of teachers and administrators, and number of and comments on supervisory visits by the department of education.

Sec. 11. NEW SECTION. 256F.11 FUTURE REPEAL.

This chapter is repealed effective July 1, 2010.

Sec. 12. Section 257.31, subsection 5, paragraph d,¹⁵ is amended to read as follows:

d. The closing of a nonpublic school, wholly or in part, or the opening or closing of a pilot charter school.

Sec. 13. Section 282.18, subsection 16, Code 2001, is amended to read as follows:

16. For purposes of this section, "good cause" means a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, or a similar set of circumstances consistent with the definition of good cause; a change in the status of a child's resident district, such as removal of accreditation by the state board, surrender of accreditation, or permanent closure of a nonpublic school, revocation of a charter school contract as provided in section 256F.8, the failure of negotiations for a whole-grade sharing, reorganization, dissolution agreement or the rejection of a current whole-grade sharing agreement, or reorganization plan, or a similar set of circumstances consistent with the definition of good cause. If the good cause relates to a change in status of a child's school district of residence, however, action by a parent or guardian must be taken to file the notification within forty-five days of the last board action or within thirty days of the certification of the election, whichever is applicable to the circumstances.

Sec. 14. EXPEDITED APPLICATION PROCEDURE. The state board of education shall

¹⁵ "Code 2001," probably intended

develop an expedited charter school application procedure for the fiscal year beginning July 1, 2003,¹⁶ for purposes of receiving federal planning funds issued pursuant to the federal Elementary and Secondary Education Act of 1965, Title X, Part C, as codified in 20 U.S.C. §§ 8061-8067.

Sec. 15. EMERGENCY RULES. The state board of education may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph “b”, to implement this Act 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. 16. CONDITIONAL EFFECTIVENESS. This Act takes effect upon the department of education’s receipt of federal funds that are provided to the department under Pub. L. No. 107-110, cited as the federal No Child Left Behind Act of 2001 (Title V, Part B), for purposes of providing financial assistance for the planning, program design, and initial implementation of public charter schools. The department of education shall notify the Code editor upon receipt of such federal funds.

Approved April 23, 2002

CHAPTER 1125

REHABILITATIVE TREATMENT SERVICES PROVIDER REGULATION

S.F. 2280

AN ACT relating to the requirements of the department of human services for certain child welfare services providers and providing an effective date.

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

Section 1. REHABILITATIVE TREATMENT CHILD WELFARE SERVICES PROVIDERS.

1. The department of human services may adopt rules utilizing the emergency procedures provided in subsection 4 as necessary to implement the high-priority recommendation items identified by the department’s rehabilitative treatment services provider regulation and quality improvement work group listed in this section. In order to implement a listed item, the department must determine that the item can be implemented without additional cost to the state and, if implementation of the item requires a state medical assistance program plan amendment, the item must be approved by the federal center for Medicare and Medicaid services.

2. Subject to the implementation conditions in subsection 1, the department shall adopt rules to take effect on or before April 1, 2003, or within sixty days after receiving the federal center’s approval, whichever is later, to implement all of the following:

a. Permitting deemed status for those providers of services that are certified, or accredited to be in compliance with relevant standards by the joint commission on the accreditation of health care organizations or the council on accreditation of services for families and children and that make accreditation reports and records available to the department.

b. Amending rules to maintain the group care standard for a weekly average number of hours of therapy and counseling, but determine compliance by averaging the hours per week over the course of a month. The recoupment for failure to comply shall be applied for a week

¹⁶ See chapter 1175, §96, 102 herein

at a time for noncompliance, not to exceed the number of days paid. This standard shall not be applied to a highly structured juvenile group care program.

c. Expanding the set of qualifications accepted for rehabilitative treatment services staff positions.

d. Utilizing a weekly results summary for documentation of the group care requirement for daily provision of skills development.

3. Subject to the implementation conditions in subsection 1, the department shall adopt rules to take effect on or before December 31, 2003, or within sixty days after receiving the federal center's approval, whichever is later, to implement all of the following:

a. Eliminating the care plan requirements regarding licensing and treatment plan review; accepting a change in the treatment plan in lieu of requiring the plan to be rewritten; and permitting the provider to determine the author of the treatment plan.

b. Revising and combining provider requirements involving licensing, contracting, and certification so that duplicative regulatory requirements are eliminated or minimized while the department maintains its quality assurance role to an appropriate degree. The requirements addressed shall include but are not limited to those involving documentation in records, and treatment plan provisions involving reviews, changes, and authors.

4. The department of human services may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this section 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 administrative rules review committee reviews the rules. Any rules adopted in accordance with this section shall also be published as notice of intended action as provided in section 17A.4.

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

Approved April 23, 2002

CHAPTER 1126

COURT FEES — MISCELLANEOUS CHANGES

S.F. 2320

AN ACT relating to the assessment of court fees by the clerk of district court.

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

Section 1. Section 602.8105, subsections 1 and 2, Code 2001, are amended to read as follows:

1. The clerk of the district court shall collect the following fees:

a. For filing and docketing a petition, other than a modification of a dissolution decree to which a written stipulation is attached at the time of filing containing the agreement of the parties to the terms of modification, eighty one hundred dollars. In counties having a population of ninety-eight thousand or over, an additional five dollars shall be charged and collected to be known as the journal publication fee and used for the purposes provided for in section 618.13.

b. For filing and docketing an application for modification of a dissolution decree to which

a written stipulation is attached at the time of filing containing the agreement of the parties to the terms of modification, ~~twenty-five~~ fifty dollars.

c. For entering a final decree of dissolution of marriage, ~~thirty~~ fifty dollars. It is the intent of the general assembly that the funds generated from the dissolution fees be appropriated and used for sexual assault and domestic violence centers.

d. For filing and docketing a small claims action, the amounts specified in section 631.6.

e. For an appeal from a judgment in small claims or for a writ of error, ~~fifty~~ seventy-five dollars.

f. For a motion to show cause in a civil case, ~~twenty-five~~ fifty dollars.

2. The clerk of the district court shall collect the following fees for miscellaneous services:

a. For filing, entering, and endorsing a mechanic's lien, ~~ten~~ twenty dollars, and if a suit is brought, the fee is taxable as other costs in the action.

b. For filing and entering an agricultural supply dealer's lien and any other statutory lien, ~~ten~~ twenty dollars.

c. For a certificate and seal, ten dollars. However, there shall be no charge for a certificate and seal to an application to procure a pension, bounty, or back pay for a member of the armed services or other person.

d. For certifying a change in title of real estate, ~~ten~~ twenty dollars.

e. Other fees provided by law.

Sec. 2. Section 625.8, subsection 1, Code 2001, is amended to read as follows:

1. The clerk of the district court shall tax as a court cost a jury fee of ~~ten~~ one hundred dollars in every action tried to a jury.

Sec. 3. Section 631.6, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. Fees for filing and docketing shall be ~~thirty~~ fifty dollars.

Approved April 23, 2002

CHAPTER 1127

HUMAN CLONING PROHIBITION

S.F. 2118

AN ACT prohibiting human cloning, and providing penalties.

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

Section 1. NEW SECTION. 707B.1 TITLE.

This chapter shall be known and may be cited as the "Human Cloning Prohibition Act".

Sec. 2. NEW SECTION. 707B.2 PURPOSE.

It is the purpose of this chapter to prohibit human cloning for any purpose, whether for reproductive cloning or therapeutic cloning.

Sec. 3. NEW SECTION. 707B.3 DEFINITIONS.

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

1. "Fetus" means a living organism of the species homo sapiens from eight weeks' development until complete expulsion or extraction from a woman's body, or until removal from an artificial womb or other similar environment designed to nurture the development of such organism.

2. "Human cloning" means human asexual reproduction, accomplished by introducing the genetic material of a human somatic cell into a fertilized or unfertilized oocyte whose nucleus has been or will be removed or inactivated, to produce a living organism with a human or predominantly human genetic constitution.

3. "Human embryo" means a living organism of the species homo sapiens from the single-celled stage to eight weeks' development.

4. "Human somatic cell" means a cell having a complete set of chromosomes obtained from a living or deceased human organism of the species homo sapiens at any stage of development.

5. "Oocyte" means a human ovum.

Sec. 4. NEW SECTION. 707B.4 HUMAN CLONING — PROHIBITIONS — EXCEPTIONS — PENALTY.

1. A person shall not intentionally or knowingly do any of the following:

a. Perform or attempt to perform human cloning.

b. Participate in performing or in an attempt to perform human cloning.

c. Transfer or receive a cloned human embryo for any purpose.

d. Transfer or receive, in whole or in part, any oocyte, human embryo, fetus, or human somatic cell, for the purpose of human cloning.

2. This section shall not restrict areas of scientific research not specifically prohibited, including in vitro fertilization; the administration of fertility-enhancing drugs; or research in the use of nuclear transfer or other cloning techniques to produce molecules, deoxyribonucleic acid, tissues, organs, plants, animals other than humans, or cells other than human embryos.

3. a. A person who violates subsection 1, paragraph "a" or "b", is guilty of a class "C" felony.

b. A person who violates subsection 1, paragraph "c" or "d", is guilty of an aggravated misdemeanor.

4. A person who violates this section in a manner that results in a pecuniary gain to the person is subject to a civil penalty in an amount that is twice the amount of the gross gain.

5. A person who violates this section and who is licensed pursuant to chapter 148, 150, or 150A is subject to revocation of the person's license.

6. A violation of this section is grounds for denial of an application for, denial of renewal of, or revocation of any license, permit, certification, or any other form of permission required to practice or engage in any trade, occupation, or profession regulated by the state.

Approved April 26, 2002

CHAPTER 1128

BOARD OF EDUCATIONAL EXAMINERS — DETERMINATIONS OF LICENSEE QUALIFICATION

S.F. 2258

AN ACT relating to the board of educational examiners' authority to determine whether an applicant for licensure or certification or for renewal of a license is qualified for the license sought.

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

Section 1. Section 272.2, subsection 14, Code Supplement 2001, is amended by striking the subsection and inserting in lieu thereof the following:

14. Adopt rules to determine whether an applicant is qualified to perform the duties for which a license is sought. The rules shall include all of the following:

a. The board may deny a license to or revoke the license of a person upon the board's finding by a preponderance of evidence that either the person has been convicted of a crime or that there has been a founded report of child abuse against the person. Rules adopted in accordance with this paragraph shall provide that in determining whether a person should be denied a license or that a practitioner's license should be revoked, the board shall consider the nature and seriousness of the founded abuse or crime in relation to the position sought, the time elapsed since the crime was committed, the degree of rehabilitation which has taken place since the incidence of founded abuse or the commission of the crime, the likelihood that the person will commit the same abuse or crime again, and the number of founded abuses committed or criminal convictions by the person involved.

b. Notwithstanding paragraph "a", the rules shall require the board to disqualify an applicant for a license or to revoke the license of a person for any of the following reasons:

(1) The person entered a plea of guilty to, or has been found guilty of, any of the following offenses established pursuant to Iowa law or offenses of a similar nature established under the laws of any other state or of the United States, or any other country, whether or not a sentence is imposed:

(a) Any of the following forcible felonies included in section 702.11: child endangerment, assault, murder, sexual abuse, or kidnapping.

(b) Any of the following sexual abuse offenses, as provided in chapter 709, involving a child:

(i) First, second, or third degree sexual abuse committed on or with a person who is under the age of eighteen years.

(ii) Lascivious acts with a child.

(iii) Detention in a brothel.

(iv) Assault with intent to commit sexual abuse.

(v) Indecent contact with a child.

(vi) Sexual exploitation by a counselor.

(vii) Lascivious conduct with a minor.

(c) Incest involving a child under section 726.2.

(d) Dissemination and exhibition of obscene material to minors under section 728.2.

(e) Telephone dissemination of obscene material to minors under section 728.15.

(2) The applicant is less than twenty-one years of age except as provided in section 272.31, subsection 1, paragraph "e". However, a student enrolled in a practitioner preparation program who meets board requirements for a temporary, limited-purpose license who is seeking to teach as part of a practicum or internship may be less than twenty-one years of age.

(3) The applicant's application is fraudulent.

(4) The applicant's license or certification from another state is suspended or revoked.

(5) The applicant fails to meet board standards for application for an initial or renewed license.

c. Qualifications or criteria for the granting or revocation of a license or the determination of an individual's professional standing shall not include membership or nonmembership in any teachers' organization.

d. An applicant for a license or certificate under this chapter shall demonstrate that the requirements of the license or certificate have been met and the burden of proof shall be on the applicant.

Sec. 2. Section 272.12, Code 2001, is amended to read as follows:

272.12 PARA-EDUCATOR CERTIFICATES.

The board of educational examiners shall adopt rules pursuant to chapter 17A relating to a voluntary certification system for para-educators. The rules shall specify rights, responsibilities, levels, and qualifications for the certificate. Applicants shall be disqualified for any reason specified in section ~~272.6~~ 272.2, subsection 14, or in administrative rule. Notwithstanding section ~~272.6~~ 272.2, subsection 14, paragraph "a" "b", subparagraph (2), the board may issue a para-educator certificate to a person who is at least eighteen years of age. A person holding a para-educator certificate shall not perform the duties of a licensed practitioner. A certificate

issued pursuant to this chapter shall not be considered a teacher or administrator license for any purpose specified by law, including the purposes specified under this chapter or chapter 279.

Sec. 3. Section 272.6, Code 2001, is repealed.

Approved April 26, 2002

CHAPTER 1129

EDUCATION REGULATION AND FUNDING — MISCELLANEOUS PROVISIONS

S.F. 2259

AN ACT amending Code provisions administered by the department of education, including provisions related to participation in extracurricular activities, tuition reimbursement payment by school districts under the postsecondary enrollment options Act, interscholastic activities agreements, school infrastructure program calculations, phase I payment calculations, and the use of phase III balances by school districts and area education agencies.

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

Section 1. Section 256.46, Code 2001, is amended to read as follows:

256.46 RULES FOR PARTICIPATION IN EXTRACURRICULAR ACTIVITIES BY CERTAIN CHILDREN.

The state board shall adopt rules that permit a child who does not meet the residence requirements for participation in extracurricular interscholastic contests or competitions sponsored or administered by an organization as defined in section 280.13 to participate in the contests or competitions immediately if the child is duly enrolled in a school, is otherwise eligible to participate, and meets one of the following circumstances or a similar circumstance: the child has been adopted; the child is placed under foster or shelter care; the child is living with one of the child's parents as a result of divorce, separation, death, or other change in the child's parents' marital relationship, or pursuant to other court-ordered decree or order of custody; the child is a foreign exchange student; the child has been placed in a juvenile correctional facility; the child is a ward of the court or the state; the child is a participant in a substance abuse or mental health program; or the child is enrolled in an accredited nonpublic high school because the child's district of residence has entered into a whole grade sharing agreement for the pupil's grade with another district.

Sec. 2. Section 261C.6, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Not later than June 30 of each year, a school district shall pay a tuition reimbursement amount to an eligible postsecondary institution that has enrolled its resident eligible pupils under this chapter, unless the eligible pupil is participating in open enrollment under section 282.18, in which case, the tuition reimbursement amount shall be paid by the receiving district. However, if a child's residency changes during a school year, the tuition shall be paid by the district in which the child was enrolled as of the third Friday in September or the district in which the child was counted under section 257.6, subsection 1, paragraph "f". For pupils en-

rolled at the school for the deaf and the Iowa braille and sight saving school, the state board of regents shall pay a tuition reimbursement amount by June 30 of each year. The amount of tuition reimbursement for each separate course shall equal the lesser of:

Sec. 3. Section 280.13A, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If a school district or nonpublic school does not provide an interscholastic activity for its students, the board of directors of that school district or the authorities in charge of the nonpublic school may complete an agreement with another school district or nonpublic school to provide for the eligibility of its students in interscholastic activities provided by that other school district or nonpublic school. A copy of each agreement completed under this section shall be filed with the appropriate organization as organization is defined in section 280.13 not later than April 30 of the school year preceding the school year in which the agreement takes effect, unless an exception is granted by the organization for good cause. An agreement completed under this section shall be deemed approved unless denied by the governing organization within ten days after its receipt. A governing organization shall determine whether an agreement would substantially prejudice the interscholastic activities of other schools. An agreement denied by a governing organization under this section may be appealed to the state board of education under chapter 290.

Sec. 4. Section 282.18, subsection 7, Code 2001, is amended to read as follows:

7. A pupil participating in open enrollment shall be counted, for state school foundation aid purposes, in the pupil's district of residence. A pupil's residence, for purposes of this section, means a residence under section 282.1. The board of directors of the district of residence shall pay to the receiving district the state cost per pupil for the previous school year, plus any moneys received for the pupil as a result of the non-English speaking weighting under section 280.4, subsection 3, for the previous school year multiplied by the state cost per pupil for the previous year. The district of residence shall also transmit the phase III moneys allocated to the district for the previous year for the full-time equivalent attendance of the pupil, who is the subject of the request, to the receiving district specified in the request for transfer. If the pupil participating in open enrollment is also an eligible pupil under chapter 261C, the receiving district shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in section 261C.6.

Sec. 5. Section 292.2, subsection 1, paragraph d, Code 2001, is amended to read as follows:

d. The department of education, in consultation with the department of revenue and finance and the department of management, shall annually compute capacity per pupil and the local match percentage for each school district in the state. The ~~initial~~ calculations shall be released not later than ~~January 1, 2001~~. ~~For all calculations thereafter, the calculations shall be released not later than July~~ September 1 of each year.

Sec. 6. Section 294A.6, unnumbered paragraph 1, Code 2001, is amended to read as follows:

For the school year beginning July 1, 1998, the department of education shall notify the department of revenue and finance of the total minimum salary supplement, as described in section 294A.5, subsection 2, paragraphs "a" and "b", to be paid to each school district and area education agency under phase I and the department of revenue and finance shall make the payments. For school years after the school year beginning July 1, ~~1998~~ 2001, if a school district or area education agency reduces the number of its full-time equivalent teachers in the base year below the number employed during the school year beginning July 1, 1998, the department of revenue and finance shall reduce the total minimum salary supplement payable to that school district or area education agency in the budget year so that the amount paid is equal to the ratio of the number of full-time equivalent teachers employed in the school district or area education agency for ~~that school~~ the base year divided by the number of full-time equivalent teachers employed in the school district or area education agency for the school

year beginning July 1, 1998, and multiplying that fraction by the total minimum salary supplement paid to that school district or area education agency for the school year beginning July 1, 1998. For purposes of this section, "base year" and "budget year" mean the same as defined in section 257.2.

Sec. 7. Section 294A.16, unnumbered paragraphs 4 and 5, Code 2001, are amended to read as follows:

~~A school district or area education agency, which receives money for a school year for an approved phase III plan, may retain up to fifty percent of the moneys allocated to the district or area education agency for the next succeeding school year, in order to continue the approved plan. Any of the retained phase III moneys remaining in the district or area education agency account after at the second end of the fiscal year of the plan shall revert to the general fund of the state as provided in section 8.33 remain available for expenditure for purposes of this division by the school district or area education agency in succeeding fiscal years.~~

Any moneys allocated ~~or retained~~ for an approved phase III plan, and any interest accrued on the moneys, are miscellaneous income for purposes of chapter 257, shall not be commingled with state aid payments made, under sections 257.16 and 257.35, to a school district or area education agency, and shall be accounted for by the school district or area education agency separately from state aid payment accounts.

Approved April 26, 2002

CHAPTER 1130

REGULATION, PROTECTION, AND DISPOSITION OF ANIMALS

S.F. 2268

AN ACT relating to animals other than livestock, including the taking of such animals, providing for their disposition, providing for the reimbursement of dispositional expenses, providing for the protection of animals from injury or torment, and providing penalties.

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

Section 1. Section 351.37, Code 2001, is amended to read as follows:

351.37 RUNNING AT LARGE — APPREHENSION AND IMPOUNDAGE.

~~Any A dog found shall be apprehended and impounded by a local board of health or law enforcement official if the dog is running at large and the dog is not wearing a valid rabies vaccination tag and for which no or a rabies vaccination certificate can be produced shall be apprehended and impounded is not presented to the local board of health or law enforcement official.~~

When such dog has been apprehended and impounded, the The local board of health or law enforcement official shall give provide written notice in not less than two days to the owner, if known the local board of health or law enforcement official can reasonably determine the owner's name and current address by accessing a tag or other device that is on or a part of the dog. If The notice shall be sent within two days after the dog has been impounded. The notice shall provide that if the owner does not redeem the dog within seven days of from the date of that the notice is delivered, the dog may be humanely destroyed or otherwise disposed of in accordance with law. For purposes of this section, notice is delivered when the local board of health or law enforcement official mails the notice which may be by regular mail. An owner

may redeem a dog by having it immediately vaccinated and by paying the cost of impoundment.

If the owner of a ~~the impounded dog apprehended or impounded cannot be located~~ fails to redeem the dog within seven days ~~from the date of the delivery of the notice to the dog's owner as provided in this section~~, the animal dog may be ~~humanely destroyed or otherwise disposed of in accordance with law. If the dog is destroyed, it must be destroyed by euthanasia as defined in section 162.2.~~

Sec. 2. Section 717B.1, Code 2001, is amended by adding the following new subsections:
NEW SUBSECTION. 3A. "Dispositional expenses" means expenses incurred by a local authority in rescuing an animal as provided in section 717B.5, maintaining the animal until the conclusion of a dispositional proceeding as provided in section 717B.4, or disposing of the animal as provided in section 717B.4.

NEW SUBSECTION. 7. "Responsible party" means a person who owns or maintains an animal.

NEW SUBSECTION. 8. "Threatened animal" means an animal that is abused as provided in section 717B.2, neglected as provided in section 717B.3, or tortured as provided in section 717B.3A.

Sec. 3. Section 717B.4, Code 2001, is amended to read as follows:

~~717B.4 DISPOSITION OF NEGLECTED ANIMALS DISPOSITIONAL PROCEEDINGS.~~

1. ~~A~~ Upon a petition brought by a local authority, a court in the county where an animal is maintained by a responsible party or a local authority shall determine if the animal is a threatened animal and order the its disposition of an animal neglected as provided in section 717B.3 after a hearing upon application or petition to the court by a local authority or the person owning or caring for the animal.

a. The matter shall be heard within ten days from the filing of the petition for disposition by the local authority.

b. If the animal has been rescued, the court may order that the animal be placed under the custody of the local authority and maintained in the same manner as a rescued animal under section 717B.5.

c. The court may continue the hearing for up to ~~forty~~ thirty days upon petition by the ~~person responsible party.~~ However, the court shall not grant a continuance unless the animal is maintained by the local authority, the person shall ~~The responsible party must~~ post a bond or other security with the local authority in-an as a condition of the continuance. The amount of the bond or other security shall be determined by the court, which shall not be more than the amount sufficient to provide maintenance of the animal for forty ~~thirty~~ days. The court may grant a subsequent continuance by the person upon petition by the responsible party. The continuance shall be for the same length of time if the person submits not more than thirty days. The responsible party must post a new bond or security as a condition of the subsequent continuance in the same manner as the original bond or security or as otherwise ordered by the court. However, the court shall order the immediate disposition of the animal if the animal is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

2. The hearing to determine if the animal ~~has been neglected is a threatened animal~~ for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of ~~section 717B.3~~ this chapter.

3. A ~~If the court determines that an animal is not a threatened animal, the court shall order that the animal be returned to the custody of the responsible party. If the court determines that an animal is a threatened animal, the court shall order the local authority to dispose of the threatened animal in any manner deemed appropriate for the welfare of the animal. In addition, all of the following apply:~~

a. ~~The court may order a person owning the neglected animal responsible party to pay an amount which shall not be more than the dispositional expenses incurred in maintaining the neglected animal rescued pursuant to section 717B.5, and by the local authority. The court may also award the local authority court costs, reasonable attorney fees and expenses related to the investigation and prosecution of the case, which shall be taxed as part of the costs of the action. The remaining amount of a bond or other security posted pursuant to this chapter shall be used to reimburse~~

c.¹⁷ ~~If a bond or other security was posted as a condition for a continuance of a disposition hearing as provided in this section, the local authority may use the posted amount to offset the local authority's dispositional expenses. If more than one person has a divisible interest in the animal, the amount required to be paid shall be prorated based on the percentage of interest in the animal owned by each person. The moneys shall be paid to the local authority incurring the expense. The amount shall be subtracted from proceeds owed to the owner or owners of the animal, which are received from the sale of the animal ordered by the court.~~

d. ~~Moneys owed to the local authority If any moneys are realized from the sale disposition of a neglected threatened animal, the moneys shall be paid used to offset the local authority authority's dispositional expenses before satisfying indebtedness secured by any security interest in or lien on the threatened animal.~~

e. ~~If the threatened animal is owned by more than one responsible party, the amount required to offset the local authority's dispositional expenses shall be prorated among the responsible parties based on the percentage of interest owned in the threatened animal attributable to the responsible parties as the threatened animal's titleholders. For purposes of this paragraph, a responsible party who does not own an interest in the threatened animal shall be deemed to be an owner holding a percentage interest in the animal equal to the largest percentage interest held by a landowner who is attributed an interest as the threatened animal's titleholder. If an owner of the animal responsible party is a landowner, the local authority may submit an the amount to reimburse the local authority for its dispositional expenses to the clerk of the county board of supervisors who shall report the amount to the county treasurer. The amount shall equal the balance remaining after the sale of the animal. If the threatened animal owner owns a percentage of the animal, the reported amount shall equal the remaining balance owed by all landowners who own a percentage of the animal. That is owned by more than one landowner, the amount shall be prorated among the landowners based on the percentage of interest owned in the threatened animal attributable to each landowner as the animal's titleholders. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.~~

4. ~~Neglected animals A threatened animal that is ordered by a court to be destroyed under this section shall be destroyed only by a humane method, including euthanasia as defined in section 162.2.~~

Sec. 4. Section 717B.5, Code 2001, is amended to read as follows:

717B.5 RESCUE OF NEGLECTED THREATENED ANIMALS.

A local authority may provide for the rescue of an animal as follows:

1. ~~A~~ The rescue must be made by a law enforcement officer, having cause to believe that the animal is a threatened animal after consulting with a veterinarian licensed pursuant to chapter 169, may. The law enforcement officer may rescue an animal neglected as provided in section 717B.3 the animal by entering on public or private property, as provided in this subsection. The officer may enter onto property of a person to rescue a neglected¹⁸ the animal, if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

2. If an animal is rescued pursuant to this section, the local authority shall provide for the maintenance of the neglected animal. The local authority may contract with an animal care

¹⁷ According to enrolled Act; paragraph "b" probably intended

¹⁸ The words "a neglected" probably intended

provider for the maintenance of the neglected animal. The local authority shall ~~post~~ provide the responsible party for the animal with notice of the rescue. The notice may be accomplished by doing any of the following:

a. Delivering written notice to the responsible party's last known address by the United States postal service or personal service.

b. Posting a notice in a conspicuous place at the location where the animal was rescued.

The notice shall state that the animal has been rescued by the local authority pursuant to this section.

3. Within ten days after the date that an animal is rescued, the local authority shall initiate a dispositional proceeding pursuant to section 717B.4.

4. The local authority shall pay the animal care provider for the animal's maintenance regardless of proceeds received from the sale of the disposition of the animal or any reimbursement ordered by a court, pursuant to section 717B.4.

~~3. The animal shall be subject to disposition as required by a court, pursuant to section 717B.4.~~

Sec. 5. NEW SECTION. 717D.1 DEFINITIONS.

1. "Animal" means a nonhuman vertebrate.

2. "Contest animal" means a bull, bear, chicken, or dog.

3. "Contest device" means equipment designed to enhance a contest animal's entertainment value during training or a contest event, including a device to improve the contest animal's competitiveness.

4. "Contest event" means a function organized for the entertainment or profit of spectators where a contest animal is injured, tormented, or killed, if the contest animal is a bull involved in a bullfight or bull baiting, a bear involved in bear baiting, a chicken involved in cock fighting, or a dog involved in dog fighting.

5. "Establishment" means the location where a contest event occurs or is to occur, regardless of whether a contest animal is present at the establishment or the contest animal is witnessed by means of an electronic signal transmitted to the location.

6. "Livestock" means the same as defined in section 717.1.

7. "Local authority" means the same as defined in section 717B.1.

8. "Promoter" means a person who charges admission for entry into an establishment or organizes, holds, advertises, or otherwise conducts a contest event.

9. "Spectator" means a person who attends an establishment for purposes of witnessing a contest event.

10. "Trainer" means a person who trains a contest animal for purposes of engaging in a contest event, regardless of where the contest event is located. A trainer includes a person who uses a contest device.

11. "Transporter" means a person who moves a contest animal for delivery to a training location or a contest event location.

Sec. 6. NEW SECTION. 717D.2 PROHIBITIONS — CONTEST EVENTS.

A person shall not do any of the following:

1. Own or operate an establishment located in this state in which a contest event occurs or is to occur.

2. Act as a promoter of a contest event, regardless of whether the contest event occurs in this state or another state. For purposes of this subsection, a person who aids, abets, or assists in the promotion of a contest event shall be deemed to act as a promoter.

3. Act as a trainer of a contest animal engaged or to be engaged in a contest event conducted in this state or another state. For purposes of this subsection, a person who aids, abets, or assists in the training of a contest animal engaged or to be engaged in a contest event shall be deemed to act as a trainer.

4. Act as a transporter moving a contest animal in this state.

5. Act as a spectator of a contest event conducted in this state, regardless of whether the person paid admission to witness the contest event.

Sec. 7. NEW SECTION. 717D.4 EXCEPTIONS.

1. This chapter does not apply to a function other than a contest event. A contest event does not involve any of the following events:

- a. A race, including but not limited to a race regulated under chapter 99D.
 - b. A fair as defined in section 174.1.
 - c. A rodeo or rodeo event.
 - d. A 4-H function.
 - e. A hunting or fishing party.
 - f. A field meet or trial in which the skill of dogs is demonstrated in pointing, retrieving, trailing, or chasing any game bird, game animal, or fur-bearing animal.
 - g. The raising or selling of game or fur-bearing animals as provided in chapter 481A.
2. This chapter shall not apply to any of the following:
- a. An action to carry out an order issued by a court.
 - b. An action by a licensed veterinarian practicing veterinary medicine as provided in chapter 169.
 - c. An action that is consistent with animal husbandry practices.
 - d. An action allowed in order to carry out another provision of law which allows the action.
 - e. The taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.
 - f. An action to protect the person's property from a wild animal as defined in section 481A.1.
 - g. An action to protect a person from injury or death caused by a wild animal as defined in section 481A.1.
 - h. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.
 - i. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.
 - j. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.
 - k. An institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

Sec. 8. NEW SECTION. 717D.5 PENALTIES.

A person who violates a provision of this chapter is guilty of a serious misdemeanor.

Sec. 9. NEW SECTION. 717D.6 CONFISCATION AND DISPOSITION OF ANIMALS.

A local authority may confiscate a contest animal that is trained with a contest device or is part of a contest event. The contest animal may be rescued and disposed of as neglected livestock or other animal pursuant to section 717.5 or 717B.4. If the contest animal is not rescued and disposed of pursuant to section 717.5 or 717B.4, it shall be forfeited to the state and subject to disposition as ordered by the court. In addition, the court shall order the owner of the contest animal to pay an amount which shall not be more than the expenses incurred in maintaining or disposing of the contest animal. The court may also order that the person pay reasonable attorney fees and expenses related to the investigation of the case that shall be taxed as other court costs. If more than one person has a divisible interest in the contest animal, the amount required to be paid shall be prorated based on the percentage of interest in the contest animal owned by each person. The moneys shall be paid to the local authority incurring the expense. The amount shall be subtracted from proceeds which are received from the sale of the contest animal ordered by the court.

Sec. 10. Section 717B.7, Code 2001, is repealed.

Approved April 26, 2002

CHAPTER 1131

REGISTERED NURSE RECRUITMENT

S.F. 2323

AN ACT relating to the creation of a registered nurse recruitment program and fund to be administered by the college student aid commission.

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

Section 1. NEW SECTION. 261.23 REGISTERED NURSE RECRUITMENT PROGRAM.

1. A registered nurse recruitment program is established to be administered by the college student aid commission. The program shall consist of a forgivable loan program and a tuition scholarship program for students and a loan repayment program for registered nurses. The commission shall regularly adjust the registered nurse service requirement under each aspect of the program to provide, to the extent possible, an equal financial benefit for each period of service required. From funds appropriated for purposes of the program by the general assembly, the commission shall pay a fee to schools of nursing, accredited by the board of nursing, for the administration of the program. A portion of the fee shall be based upon the number of registered nurses recruited under subsection 4.

2. A forgivable loan may be awarded to a resident of Iowa who is enrolled at an accredited school of nursing, which is located in this state, on a full-time or part-time basis in a course of study leading to a collegiate or associate degree of nursing, a diploma in nursing, or a graduate or equivalent degree in nursing, if the student agrees to practice in this state for a period of time to be determined by the commission at the time the loan is awarded. Forgivable loans to eligible students shall not become due until after the student completes a licensing examination prescribed by the board of nursing. Interest on the loans shall begin to accrue the day following the student's graduation date. If the student completes the period of practice established by the commission and agreed to by the student, the loan amount shall be forgiven. The loan amount shall not be forgiven if the student fails to complete the required time period of practice in this state or fails to satisfactorily continue in the school of nursing.

3. A student enrolled at an accredited school of nursing, which is located in this state, on a full-time or part-time basis in a course of study leading to a collegiate or associate degree of nursing, a diploma in nursing, or a graduate or equivalent degree in nursing, shall be eligible for a tuition scholarship for the student's study at the school of nursing. The scholarship shall be for an amount not to exceed the resident tuition rate established for institutions of higher learning under the control of the state board of regents. A student who receives a tuition scholarship shall not be eligible for the loan repayment program provided for by this section. A student who receives a tuition scholarship shall agree to practice in a community in this state for a period of time to be determined by the commission at the time the scholarship is awarded. The student shall repay the scholarship to the commission if the student fails to practice in a community in this state for the required period of time.

4. A registered nurse shall be eligible for the registered nurse repayment program if the registered nurse has received from an accredited school of nursing located in this state a collegiate

or associate degree of nursing, a diploma in nursing, or a graduate or equivalent degree in nursing and agrees to practice in an eligible community in this state that has agreed to provide additional funds for the registered nurse's loan repayment. The contract for the loan repayment shall stipulate the time period the registered nurse shall practice in an eligible community in this state. In addition, the contract shall stipulate that the registered nurse repay any funds paid on the registered nurse's loan by the commission if the registered nurse fails to practice in an eligible community in this state for the required period of time. For purposes of this subsection, "eligible community" means a community that agrees to match state funds provided on at least a dollar-for-dollar basis for the loan repayment of a registered nurse who practices in the community.

5. A registered nurse recruitment revolving fund is created in the state treasury as a separate fund under the control of the commission. The commission shall deposit payments made by registered nurse recruitment program recipients and the proceeds from the sale of registered nurse forgivable loans into the registered nurse recruitment revolving fund. Moneys credited to the fund shall be used to supplement moneys appropriated for the registered nurse recruitment program. 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.

6. The commission shall adopt rules pursuant to chapter 17A to administer this section.

Approved April 26, 2002

CHAPTER 1132

DIVISION, ANNEXATION, AND DEVELOPMENT OF LAND

H.F. 582

AN ACT relating to the division and development of land by amending provisions relating to subdivision plats and plats of survey and relating to annexation and other boundary adjustments, and providing for the Act's applicability.

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

Section 1. Section 354.8, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A proposed subdivision plat lying within the jurisdiction of a governing body shall be submitted to that governing body for review and approval prior to recording. ~~A city may establish jurisdiction to review subdivisions outside its boundaries pursuant to the provisions of section 354.9.~~ Governing bodies shall apply reasonable standards and conditions in accordance with applicable statutes and ordinances for the review and approval of subdivisions. The governing body, within sixty days of application for final approval of the subdivision plat, shall determine whether the subdivision conforms to its comprehensive plan and shall give consideration to the possible burden on public improvements and to a balance of interests between the proprietor, future purchasers, and the public interest in the subdivision when reviewing the proposed subdivision and when requiring the installation of public improvements in conjunction with approval of a subdivision. The governing body shall not issue final approval of a subdivision plat unless the subdivision plat conforms to sections 354.6, 354.11, and 355.8.

Sec. 2. Section 354.8, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A city may establish jurisdiction to review subdivisions or plats of survey outside its boundaries pursuant to the provisions of section 354.9. In the case of a city, the provisions of this section apply to the review by the city of both subdivision plats and plats of survey.

Sec. 3. Section 354.9, subsections 1 and 2, Code 2001, are amended to read as follows:

1. If a city, which has adopted ordinances regulating the division of land, desires to review subdivision plats or plats of survey for divisions or subdivisions outside the city's boundaries, then the city shall establish by ordinance specifically referring to the authority of this section, the area subject to the city's review and approval. The area of review may be identified by individual tracts, by describing the boundaries of the area, or by including all land within a certain distance of the city's boundaries, which shall not extend more than two miles distance from the city's boundaries. The ordinance establishing the area of review or modifying the area of review by a city, shall be recorded in the office of the recorder and filed with the county auditor.

2. If a subdivision lies in a county, which has adopted ordinances regulating the division of land, and also lies within the area of review established by a city pursuant to this section, then the subdivision plat or plat of survey for the division or subdivision shall be submitted to both the city and county for approval. The standards and conditions applied by a city or county for review and approval of the subdivision shall be the same standards and conditions used for review and approval of subdivisions within the city limits or shall be the standards and conditions for review and approval established by agreement of the city and county pursuant to chapter 28E. Either the city or county may, by resolution, waive its right to review the subdivision or waive the requirements of any of its standards or conditions for approval of subdivisions, and certify the resolution which shall be recorded with the plat.

Sec. 4. Section 368.4, Code 2001, is amended to read as follows:

368.4 ANNEXING MORATORIUM.

A city, following notice and hearing, may by resolution agree with another city or cities to refrain from annexing specifically described territory for a period not to exceed ten years and, following notice and hearing, may by resolution extend the agreement for subsequent periods not to exceed ten years each. Notice of a hearing shall be served¹ at least thirty days before the hearing on the city development board, and a on the board of supervisors of the county in which the territory is located, and on all persons owning land within the area subject to the agreement. The notice shall include the time and place of the hearing, describe the territory subject to the proposed agreement, and the general terms of the agreement. After passage of a resolution by the cities approving the agreements, a copy of the agreement and a copy of any resolution extending an agreement shall be filed with the city development board within thirty ten days of enactment. If such an agreement is in force, the board shall dismiss a petition or plan which violates the terms of the agreement.

Sec. 5. Section 368.7, subsection 1, Code 2001, is amended to read as follows:

1. All of the owners of land in a territory adjoining a city may apply in writing to the council of the adjoining city requesting annexation of the territory. Territory comprising railway right-of-way or territory comprising not more than twenty percent of the land area may be included in the application without the consent of the owner to avoid creating an island or to create more uniform boundaries if a copy of the application is mailed by certified mail to the owner and each affected public utility, at least ~~ten~~ fourteen business days prior to any action taken by the city council on the application. The application must contain a legal description and a map of the territory showing its location in relationship to the city. An annexation including territory comprising not more than twenty percent of the land area without consent of the property owners is not complete without approval by four-fifths of the members of the board after a hearing for all affected property owners and the county.

¹ See chapter 1175, §31 herein

Sec. 6. Section 368.7, subsection 1, Code 2001, is amended by adding the following new unnumbered paragraph:

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

Sec. 7. Section 368.7, subsection 2, Code 2001, is amended to read as follows:

2. An application for annexation of territory not within an urbanized area of a city other than the city to which the annexation is directed must be approved by resolution of the council which receives the application. In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. The city council shall mail a copy of the application by certified mail to the board of supervisors of each county which contains a portion of the territory at least fourteen business days prior to any action taken by the city council on the application. The council shall also publish notice of the application in an official county newspaper in each county which contains a portion of the territory at least fourteen days prior to any action taken by the council on the application. Upon receiving approval of the council, the city clerk shall file a copy of the resolution, map, and legal description of the territory involved with the secretary of state, the county board of supervisors of each county which contains a portion of the territory, each affected public utility, and the state department of transportation. The city clerk shall also record a copy of the legal description, map, and resolution with the county recorder of each county which contains a portion of the territory. The secretary of state shall not accept and acknowledge a copy of a legal description, map, and resolution of annexation which would create an island. The annexation is completed upon acknowledgment by the secretary of state that the secretary of state has received the legal description, map, and resolution.

Sec. 8. Section 368.7, subsection 3, Code 2001, is amended to read as follows:

3. An application for annexation of territory within an urbanized area of a city other than the city to which the annexation is directed must be approved both by resolution of the council which receives the application and by the board. The board shall not approve an application which creates an island. Notice of the application shall be mailed by certified mail, by the city to which the annexation is directed, at least ~~ten~~ fourteen business days prior to any action by the city council on the application to the council of each city whose boundary adjoins the territory or is within two miles of the territory, to the board of supervisors of each county which contains a portion of the territory, each affected public utility, and to the regional planning authority of the territory. Notice of the application shall be published in an official county newspaper in each county which contains a portion of the territory at least ten business days prior to any action by the city council on the application. In the discretion of a city council, the resolution may include a provision for a transition for the imposition of taxes as provided in section 368.11, subsection 13. The annexation is completed when the board has filed and recorded copies of applicable portions of the proceedings as required by section 368.20, subsection 2.

Sec. 9. Section 368.11, unnumbered paragraph 4, Code 2001, is amended to read as follows:

At least ~~ten~~ fourteen business days before a petition for involuntary annexation is filed as provided in this section, the petitioner shall make its intention known by sending a letter of

intent by certified mail to the council of each city whose urbanized area contains a portion of the territory, the board of supervisors of each county which contains a portion of the territory, the regional planning authority of the territory involved, each affected public utility, and to each property owner listed in the petition. The written notification shall include notice that the petitioners shall hold a public meeting on the petition for involuntary annexation prior to the filing of the petition.

Sec. 10. NEW SECTION. 368.26 FAILURE TO PROVIDE MUNICIPAL SERVICES.

If a city fails to provide municipal services to territory involuntarily annexed, according to the plan filed pursuant to section 368.11, within three years after city taxes are imposed in the annexed territory, the city development board shall initiate proceedings to sever the annexed territory from the city. However, a city may appeal to the board for an additional three years to provide municipal services if good cause is shown. A petition for severance filed pursuant to this section shall be filed and acted upon in the same manner as a petition under section 368.11. For purposes of this section and section 368.11, subsection 14, "municipal services" means services selected by a landowner to be provided by the city, including, but not limited to, water supply, sewage disposal, street and road maintenance, and police and fire protection.²

Sec. 11. APPLICABILITY. This Act applies to applications, petitions, or plans filed for annexation of territory on or after the effective date of this Act.

Approved April 26, 2002

CHAPTER 1133

WATERCRAFT REGULATION — OPERATION AND SAFETY

H.F. 2447

AN ACT relating to the operation and regulation of personal watercraft, and to watercraft safety courses and certificates, and subjecting violators to a penalty.

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

Section 1. Section 462A.2, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 27A. "Personal watercraft" means a vessel, less than sixteen feet in length, which is propelled by a water jet pump or similar machinery as its primary source of motor propulsion and is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than being operated by a person sitting, standing, or kneeling inside the vessel.

Sec. 2. Section 462A.12, subsection 6, Code Supplement 2001, is amended by striking the subsection and inserting in lieu thereof the following:

6. An owner or operator shall not permit any person under twelve years of age to operate the personal watercraft unless accompanied in or on the same personal watercraft by a responsible person of at least eighteen years of age. However, commencing January 1, 2003, a person who is twelve years of age or older but less than eighteen years of age shall not operate any personal watercraft unless the person has successfully completed a department-approved wa-

² See chapter 1175, §32 herein

tercraft safety course. A person required to have a watercraft safety certificate shall carry and shall exhibit or make available the certificate upon request of an officer of the department. A violation of this subsection is a simple misdemeanor as provided in section 462A.13. However, a person charged with violating this subsection shall not be convicted if the person produces in court, within a reasonable time, a department-approved certificate. The cost of a department certificate, or any duplicate, shall not exceed five dollars.

Sec. 3. Section 462A.12, Code Supplement 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 12. A person shall not operate a personal watercraft at any time between sundown and sunup.

NEW SUBSECTION. 13. A person shall not chase or harass animals while operating a personal watercraft or motorboat.

Approved April 26, 2002

CHAPTER 1134

ELECTIONS AND VOTER REGISTRATION

H.F. 2472

AN ACT relating to the office of secretary of state and the conduct of elections and of voter registration in the state and including effective and applicability date provisions.

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

Section 1. Section 39.2, subsection 1, unnumbered paragraph 2, Code 2001, is amended to read as follows:

A special election shall not be held in conjunction with the primary election. A special election shall not be held in conjunction with a school election unless the special election is for a school district or community college. A special election shall not be held in conjunction with a regularly scheduled or special city primary or city runoff election.

Sec. 2. Section 39.3, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 17. "Written" and "in writing" may include any mode of representing words or letters in general use. A signature, when required by law, must be made by the writing or markings of the person whose signature is required. If a person is unable due to a physical disability to make a written signature or mark, that person may substitute either of the following in lieu of a signature required by law:

a. The name of the person with a disability written by another upon the request and in the presence of the person with a disability.

b. A rubber stamp reproduction of the name or facsimile of the actual signature of the person with a disability when adopted by that person for all purposes requiring a signature and then only when affixed by that person or another upon the request and in the presence of the person with a disability.

Sec. 3. NEW SECTION. 39.26 CANDIDATE QUALIFICATIONS.

Any person seeking election to an elective office under the laws of this state shall be an eligible elector at the time of any election at which the person's name appears on the ballot.

Sec. 4. NEW SECTION. 39.27 QUALIFICATIONS FOR PUBLIC OFFICE.

Any person elected to an office under the laws of this state shall be an eligible elector. At the time an elected official takes office the official shall be a resident of the state, district, county, township, city, or ward by or for which the person was elected, or in which the duties of the office are to be exercised. An elected official shall continue to be a resident of the state, district, county, township, city, or ward by or for which the person was elected, or in which the duties of the office are to be exercised for the duration of the term of office. This section shall not apply to United States senators or representatives in Congress or to members of the general assembly.

Sec. 5. Section 43.14, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

43.14 FORM OF NOMINATION PAPERS.

1. Nomination papers shall include a petition and an affidavit of candidacy. All nomination petitions shall be eight and one-half by eleven inches in size and in substantially the form prescribed by the state commissioner of elections. They shall include or provide spaces for the following information:

- a. A statement identifying the signers of the petition as eligible electors of the appropriate county or legislative district and of the state.
- b. The name of the candidate nominated by the petition.
- c. For nomination petitions for candidates for the general assembly, a statement that the residence of the candidate is within the appropriate legislative district, or if that is not true that the candidate will reside there within sixty days before the election. For other offices, a statement of the name of the county where the candidate resides.
- d. The political party with which the candidate is a registered voter.
- e. The office sought by the candidate, including the district number, if any.
- f. The date of the primary election for which the candidate is nominated.

Signatures on a petition page shall be counted only if the required information is written or printed at the top of the page. Nomination papers on behalf of candidates for seats in the general assembly need only designate the number of the senatorial or representative district, as appropriate, and not the county or counties, in which the candidate and the petitioners reside. A signature line shall not be counted if the line lacks the signature of the eligible elector and the signer's address and city. The person examining the petition shall mark any deficiencies on the petition and affidavit.

2. Signed nomination petitions and the signed and notarized affidavit of candidacy shall not be altered to correct deficiencies noted during examination. If the nomination petition lacks a sufficient number of acceptable signatures, the nomination petition shall be rejected and shall be returned to the candidate.

The nomination papers shall be rejected if the affidavit lacks any of the following:

- a. The candidate's name.
- b. The name of the office sought, including the district, if any.
- c. The political party name.
- d. The signature of the candidate.
- e. The signature of a notary public or other officer empowered to witness oaths.

The candidate may replace a deficient affidavit with a corrected affidavit only if the replacement affidavit is filed before the filing deadline. The candidate may resubmit a nomination petition that has been rejected by adding a sufficient number of pages or signatures to correct the deficiency. A nomination petition and affidavit filed to replace rejected nomination papers shall be filed together before the deadline for filing.

Sec. 6. Section 43.15, subsection 4, Code 2001, is amended to read as follows:

4. When more than one sheet is used, the sheets shall be neatly arranged and securely fastened together before filing, and shall be considered one nomination ~~paper~~ petition.

Sec. 7. Section 43.24, subsection 1, paragraph d, Code 2001, is amended to read as follows:

d. Those filed with the city clerk under this chapter, at least thirty-six days before the ~~municipal~~ city primary election.

Sec. 8. Section 43.27, Code 2001, is amended to read as follows:

43.27 PRINTING OF BALLOTS.

The ballots of each political party shall be printed in black ink, on separate sheets of paper, uniform in color, quality, texture, and size, with the name of the political party printed at the head of said ballots, which ballots shall be prepared by the commissioner in the same manner as for the general election, except as in this chapter provided. The commissioner may print the ballots for each political party using a different color for each party. If colored paper is used, all of the ballots for each separate party shall be uniform in color.

Sec. 9. Section 43.45, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

43.45 CANVASS OF VOTES.

1. Upon the closing of the polls the precinct election officials shall immediately publicly canvass the vote. The canvass shall be conducted using the procedures established in subsection 2 or 3, whichever is appropriate for the voting system used in the precinct.

2. In precincts where paper ballots are used, precinct election officials shall do all of the following:

- a. Place the ballots of the several political parties in separate piles.
- b. Separately count the ballots of each party, and make the correct entries thereof on the tally sheets.
- c. Certify to the number of votes cast upon the ticket of each political party for each candidate for each office.
- d. Place the ballots cast on behalf of each of the parties in separate envelopes. Seal each envelope and place the signature of all board members of the precinct across the seal of the envelope so that it cannot be opened without breaking the seal.
- e. On the outside of each envelope enter the number of ballots cast by each party in the precinct and contained in the envelope.
- f. Seal the tally sheets and certificates of the precinct election officials in an envelope on the outside of which are written or printed the names of the several political parties with the names of the candidates for the different offices under their party name, and opposite each candidate's name enter the number of votes cast for such candidate in the precinct.
- g. Enter on the envelope the total number of voters of each party who cast ballots in the precinct.
- h. Communicate the results in the manner required by section 50.11, to the commissioner of the county in which the polls are located, who shall remain on duty until the results are communicated to the commissioner from each polling place in the county.

3. In precincts where voting machines are used, precinct election officials shall do all of the following:

- a. Close the machines to prevent additional voting, and print the results for the precinct.
- b. Tabulate all write-in votes. If necessary, add the votes, including write-in votes, from all machines to obtain the total number of votes cast in the precinct by the members of each political party for each office on the ballot.
- c. Put any forms used by voters to cast write-in votes in an envelope with one copy of the printed results from each voting machine. Seal the envelope and place the signature of all board members of the precinct across the seal of the envelope so that it cannot be opened without breaking the seal.
- d. On the outside of the envelope enter the number of voters from each party in the precinct. Report the number of votes cast for each office by the voters of each political party. A copy of the printed tape from the voting machine may be used to report vote totals.

e. Communicate the results to the commissioner in the manner required by section 50.11. The commissioner shall remain on duty until the results are communicated to the commissioner from each polling place in the county.

4. In precincts where electronic voting systems are used and ballots are counted in the precinct, precinct election officials shall do all of the following:

a. Close and secure the ballot reader to prevent the insertion of additional ballots.

b. Print the results for the precinct.

c. Open the ballot container. Secure all ballots counted by the vote-tabulating device. Sort the remaining ballots by party. Tally all write-in votes and any other ballots not yet counted. Record the results in the tally list.

d. Put all ballots in an envelope or other package and seal it. All members of the board shall sign their names across the seal of the envelope. The seal shall be placed so that the envelope or package cannot be opened without breaking the seal.

5. In precincts where electronic voting systems are used and ballots are counted at a central location, precinct election officials shall follow the procedures in section 52.32.

Sec. 10. Section 43.48, Code 2001, is amended to read as follows:

43.48 ELECTOR MAY ASCERTAIN VOTE CAST.

Any elector of the county shall have the right, before the day fixed for canvassing the returns, to ascertain the vote cast for any candidate in any precinct in the county, as shown on the outside of the envelope containing the tally list or on printed reports from voting machines or electronic voting systems.

Sec. 11. Section 43.114, Code 2001, is amended to read as follows:

43.114 TIME OF HOLDING SPECIAL CHARTER CITY PRIMARY.

In special charter cities holding a ~~municipal city~~ primary election under the provisions of section 43.112 such primary shall be held on the first Tuesday in October of the year in which ~~general municipal regular city~~ elections are held.

Sec. 12. Section 43.118, Code 2001, is amended to read as follows:

43.118 EXPENSE.

The entire expense of conducting ~~said municipal~~ the city primary election and preparation of election registers shall be audited by the city council and paid by the city.

Sec. 13. Section 44.4, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Nominations made pursuant to this chapter and chapter 45 which are required to be filed in the office of the state commissioner shall be filed in that office not more than ninety-nine days nor later than five p.m. on the eighty-first day before the date of the general election to be held in November. Nominations made for a special election called pursuant to section 69.14 shall be filed by five p.m. not less than twenty-five days before the date of an election called upon at least forty days' notice and not less than fourteen days before the date of an election called upon at least eighteen days' notice. Nominations made for a special election called pursuant to section 69.14A shall be filed by five p.m. not less than ~~twenty~~ twenty-five days before the date of the election. Nominations made pursuant to this chapter and chapter 45 which are required to be filed in the office of the commissioner shall be filed in that office not more than ninety-two days nor later than five p.m. on the sixty-ninth day before the date of the general election. Nominations made pursuant to this chapter or chapter 45 for city office shall be filed not more than seventy-two days nor later than five p.m. on the forty-seventh day before the city election with the city clerk, who shall process them as provided by law.

Sec. 14. Section 45.3, unnumbered paragraph 1, Code Supplement 2001, is amended by striking the unnumbered paragraph.

Sec. 15. NEW SECTION. 45.5 FORM OF NOMINATION PAPERS.

Nomination papers shall include a petition and an affidavit of candidacy. All nomination

petitions shall be eight and one-half by eleven inches in size and shall be in substantially the form prescribed by the state commissioner of elections. They shall provide spaces for the following information:

1. A statement identifying the signers of the petition as eligible electors of the appropriate county or legislative district and of the state of Iowa.
2. The name of the candidate nominated by the petition.
3. A statement that the candidate is a resident of the appropriate ward, city, county, school district, or legislative or other district as required by section 45.1.
4. The office sought by the candidate, including the district number, if any.
5. The name and date of the election for which the candidate is nominated.

Signatures on a petition page shall be counted only if the required information is written or printed at the top of the page. Nomination papers on behalf of candidates for seats in the general assembly need only designate the number of the senatorial or representative district, as appropriate, and not the county or counties, in which the candidate and the petitioners reside. Signature lines on the nomination petitions shall not be counted if the line lacks the signature of the eligible elector and the signer's address and city. The person examining the petition shall mark any deficiencies on the petition.

The pages of the petition shall be securely fastened together to form a single bundle. Nomination petitions that are not bound shall be returned without further examination. The state commissioner shall prescribe by rule the acceptable methods for binding nomination petitions.

Signed nomination petitions and the signed and notarized affidavit of candidacy shall not be altered to correct deficiencies noted during the examination. If the nomination petition lacks a sufficient number of acceptable signatures, the nomination papers shall be rejected and returned to the candidate.

The nomination papers shall be rejected if the affidavit lacks any of the following:

- a. The candidate's name.
- b. The name of the office sought, including the district, if any.
- c. The signature of the candidate.
- d. The signature of a notary public or other officer empowered to witness oaths.

The candidate may replace a deficient affidavit with a corrected one only if the replacement is filed before the filing deadline. The candidate may resubmit a nomination petition that has been rejected by adding a sufficient number of pages or signatures to correct the deficiency. A nomination petition and affidavit filed to replace rejected nomination papers shall be filed together before the deadline for filing.

Sec. 16. NEW SECTION. 45.6 REQUIREMENTS IN SIGNING.

The following requirements shall be observed in the signing and preparation of nomination petitions:

1. A signer may sign nomination petitions for more than one candidate for the same office, and the signature is not invalid solely because the signer signed nomination petitions for one or more other candidates for the office.
2. Each signer shall add the signer's residence, with street and number.
3. All signers, for all nominations, of each separate part of a nomination petition, shall reside in the appropriate ward, city, county, school district, or legislative or other district as required by section 45.1.
4. When more than one sheet is used, the sheets shall be neatly arranged and securely fastened together before filing, and shall be considered one nomination petition. Nomination petitions which are not securely fastened together shall be returned to the candidate or the candidate's designee without examination. The state commissioner shall prescribe by rule the acceptable methods for binding nomination petitions.
5. Only one candidate shall be petitioned for or nominated in the same nomination petition, except for the offices of governor and lieutenant governor, and president and vice president.

Sec. 17. Section 48A.2, subsection 3, Code 2001, is amended to read as follows:

3. "Person who is ~~mentally~~ incompetent to vote" means a person described in section 222.2, subsection 4, who has been found to lack the mental capacity to vote in a proceeding held pursuant to section 222.31 or 633.556.

Sec. 18. Section 48A.6, subsection 2, Code 2001, is amended to read as follows:

2. A person who is ~~mentally~~ incompetent to vote. Certification by the clerk of the district court that any such person has been found no longer incompetent by a court shall qualify such person to again be an elector, subject to the other provisions of this chapter.

Sec. 19. Section 48A.9, subsection 2, Code 2001, is amended to read as follows:

2. The commissioner's office shall be open from eight a.m. until at least five p.m. on the day registration closes before each regularly scheduled election. However, if the last day to register to vote for a regularly scheduled election falls on the day after Thanksgiving, the deadline shall be the following Monday.

Sec. 20. Section 48A.10, Code 2001, is amended to read as follows:

48A.10 REGISTRATION REQUIRED.

If a registered voter moves to a different county, the person shall submit a completed voter registration form to the commissioner in order to be qualified to vote in that county. An otherwise eligible elector whose right to vote has been restored pursuant to chapter 914 or who has been found not to be a person who is ~~mentally~~ incompetent to vote may register to vote.

Sec. 21. Section 48A.11, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 6. A person who has been designated to have power of attorney by a registrant does not have authority to sign a voter registration form, except as otherwise provided in section 39.3, subsection 17.

Sec. 22. Section 48A.14, subsection 1, paragraph f, Code 2001, is amended to read as follows:

f. The challenged registrant has been adjudged by a court of law to be a person who is ~~mentally~~ incompetent to vote and no subsequent proceeding has reversed that finding.

Sec. 23. Section 48A.27, subsection 3, paragraph a, Code 2001, is amended to read as follows:

a. Annexation of territory by a city. When an existing city annexes territory, the city clerk shall furnish the commissioner a detailed map of the annexed territory. If a city is divided into wards for voting purposes, the detailed map shall show the ward designations for the annexed territory. The commissioner shall change the registration of persons residing in that territory to reflect the annexation and the city precinct to which each of those persons is assigned. If the commissioner cannot determine the names and addresses of the persons affected by the annexation, the commissioner shall send each person who may be involved a letter informing the person that the person's registration may be in error, and requesting that each person provide the commissioner with the information necessary to correct the registration records.

Sec. 24. Section 48A.27, subsection 4, paragraph c, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The notice shall be sent by forwardable mail, and shall include a postage paid preaddressed return card on which the registered voter may state the registered voter's current address. The notice shall contain a statement in substantially the following form: "Information received from the United States postal service indicates that you are no longer a resident of, and therefore not eligible to vote in (name of county) County, Iowa. If this information is not correct, and you still live in (name of county) County, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days

before any other election at which you wish to vote. If the information is correct and you have moved, please contact a local official in your new area for assistance in registering there. If you do not mail in the card, you may be required to show identification ~~proving your residence in (name of county) County~~ before being allowed to vote in (name of county) County. If you do not return the card, and you do not vote in an election in (name of county) County, Iowa, on or before (date of second general election following the date of the notice) your name will be removed from the list of voters in that county. To ensure you receive this notice, it is being sent to both your most recent registration address and to your new address as reported by the postal service.”

Sec. 25. Section 48A.28, subsection 3, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The form and language of the confirmation notice and return card shall be specified by the state voter registration commission by rule.

Sec. 26. Section 48A.29, subsection 3, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The notice shall be sent by forwardable mail, and shall include a postage paid preaddressed return card on which the registered voter may state the registered voter's current address. The notice shall contain a statement in substantially the following form: “Information received by this office indicates that you are no longer a resident of (residence address) in (name of county) County, Iowa. If the information is not correct, and you still live at that address, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days before any other election at which you wish to vote. If the information is correct, and you have moved within the county, you may update your registration by listing your new address on the card and mailing it back. If you have moved outside the county, please contact a local official in your new area for assistance in registering there. If you do not mail in the card, you may be required to show identification ~~proving your residence in (name of county) County~~ before being allowed to vote in (name of county) County. If you do not return the card, and you do not vote in some election in (name of county) County, Iowa, on or before (date of second general election following the date of the notice) your name will be removed from the list of registered voters in that county.”

Sec. 27. Section 48A.30, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. The registered voter dies. For the purposes of this subsection, the commissioner may accept as evidence of death a notice from the state registrar of vital statistics forwarded by the state registrar of voters, a written statement from a member of the registered voter's household, an obituary in a newspaper, a written statement from an election official, or a notice from ~~the clerk of the district court in~~ county recorder of the county where the registered voter died.

Sec. 28. Section 48A.30, subsection 1, paragraph e, Code 2001, is amended to read as follows:

e. The clerk of the district court or the state registrar sends notice that the registered voter has been declared a person who is ~~mentally~~ incompetent to vote under state law.

Sec. 29. Section 48A.38, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The county commissioner of registration and the state registrar of voters shall remove a voter's social security number from a voter registration list prepared pursuant to this section.

Sec. 30. Section 49.21, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commissioner shall post a sign at the entrance

to the polling place indicating the election precinct number or name, and displaying a street map showing the boundaries of the precinct.

Sec. 31. Section 49.30, subsection 1, Code 2001, is amended to read as follows:

1. Where special paper ballots are used, if it is not possible to include all offices and public measures on a single ballot, separate ballots may be provided for township offices, nonpartisan offices, judges, or public measures.

Sec. 32. Section 49.31, subsection 2, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. On the general election ballot the names of candidates for the nonpartisan offices listed in section 39.21 shall be arranged by drawing lots for position. The board of supervisors shall hold the drawing at its first meeting following the deadline for receipt of objections and withdrawals by candidates for the general election.

Sec. 33. Section 49.53, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The commissioner shall not less than four nor more than twenty days before the day of each election, except those for which different publication requirements are prescribed by law, publish notice of the election. The notice shall contain a facsimile of the portion of the ballot containing the first rotation as prescribed by section 49.31, subsection 2, and shall show the names of all candidates or nominees and the office each seeks, and all public questions, to be voted upon at the election. The sample ballot published as a part of the notice may at the discretion of the commissioner be reduced in size relative to the actual ballot but such reduction shall not cause upper case letters appearing in candidates' names or in summaries of public measures on the published sample ballot to be less than five thirty-sixths of an inch high in candidates' names or in summaries of public measures ninety percent of the size of such upper case letters appearing on the actual ballot. The notice shall also state the date of the election, the hours the polls will be open, the location of each polling place at which voting is to occur in the election, the location of the polling places designated as early ballot pick-up sites, and the names of the precincts voting at each polling place, but the statement need not set forth any fact which is apparent from the portion of the ballot appearing as a part of the same notice. The notice shall include the full text of all public measures to be voted upon at the election. The notice shall also include notice of testing required pursuant to sections 52.9, 52.35, and 52.38.

Sec. 34. Section 49.57, subsection 4, Code 2001, is amended to read as follows:

4. On ballots that will be counted by electronic tabulating equipment, ballots shall include a voting target next to the name of each candidate. The position, shape, and size of the targets shall be appropriate for the equipment to be used in counting the votes. Where paper ballots are used, a square, ~~the sides of which shall not be less than one-fourth of an inch in length,~~ may be printed at the beginning of each line in which the name of a candidate is printed, except as otherwise provided.

Sec. 35. Section 49.64, Code 2001, is amended to read as follows:

49.64 NUMBER OF BALLOTS DELIVERED.

The commissioner shall cause ballots of the kind to be voted in each precinct, to be delivered to the precinct election officials as follows: in general elections which are presidential elections seventy-five at least fifty-five ballots for every fifty votes, or fraction thereof of fifty votes, cast in ~~said~~ the precinct at the last preceding general election which was also a presidential election; and in general elections which are not presidential elections, seventy-five at least fifty-five ballots for every fifty votes, or fraction thereof of fifty votes, cast ~~therein~~ at the last preceding general election which was not a presidential election.

Sec. 36. Section 49.70, Code 2001, is amended to read as follows:

49.70 PRECINCT ELECTION OFFICIALS FURNISHED INSTRUCTIONS.

The commissioner shall cause copies of the foregoing instructions to be printed in large,

clear type, under the heading of “Card of Instructions for Voters”, and shall furnish the precinct election officials with a sufficient number of such cards instructions as will enable them to comply with section 49.71.

Sec. 37. Section 49.73, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. Any election conducted for a city of three thousand five hundred or less population, including a local option sales and services tax election conducted pursuant to section 422B.1. At elections conducted pursuant to chapter 422B, all polling places shall have the same voting hours.

Sec. 38. Section 49.73, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The unincorporated area of any county voting on a local option sales and services tax pursuant to section 422B.1.

Sec. 39. Section 49.79, Code 2001, is amended to read as follows:
49.79 CHALLENGES.

Any person offering to vote may be challenged as unqualified by any precinct election official or elector; ~~and it registered voter.~~ It is the duty of each official to challenge any person offering to vote whom the official knows or suspects is not duly qualified. A ballot shall be received from a voter who is challenged, but only in accordance with section 49.81.

Sec. 40. Section 49.81, subsection 2, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Your qualifications as a registered voter have been challenged for the following reasons:

- I.
- II.
- III.

Your right to vote will be reviewed by the special precinct counting board on You have the right and are encouraged to make a written statement and submit additional written evidence to this board supporting your qualifications as a registered voter. This written statement and evidence may be given to an election official of this precinct on election day or mailed or delivered to the county commissioner of elections, but must be received ~~prior to noon~~ before a.m./p.m. on at If your ballot is not counted you will receive notification of this fact.

Sec. 41. Section 49.84, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section does not prohibit a voter from taking minor children into the voting booth with the voter.

Sec. 42. Section 49.88, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section does not prohibit a voter from taking minor children into the voting booth with the voter.

Sec. 43. Section 49.96, Code 2001, is amended to read as follows:
49.96 OFFICES WITH MORE THAN ONE PERSON TO BE ELECTED.

Where more than one person is to be elected to the same office at the same election, and all of the candidates for that office for whom the voter desires to vote were nominated by the political party or nonparty political organization for which the voter has marked a straight party or organization vote, the voter need not otherwise indicate the vote for that office. However, if a voter who has marked a straight party or organization ticket also marks the voting targets next to the names of one or more candidates for any office, only the votes cast separately for individual candidates for that office shall be counted. If the voter wishes to vote for candidates

who were nominated by different political parties or nonparty political organizations, the voter must mark the voting target for each candidate the voter has chosen, whether or not the voter has also marked a straight party or organization vote.

Sec. 44. Section 49.124, Code 2001, is amended to read as follows:

49.124 TRAINING COURSE BY COMMISSIONER.

The commissioner shall conduct, not later than the day before each primary and general election, a training course of ~~not more than two hours~~ for all election personnel, and the commissioner may do so before any other election the commissioner administers. The personnel shall include all precinct election officials and any other persons who will be employed in or around the polling places on election day. At least two precinct election officials who will serve on each precinct election board at the forthcoming election shall attend the training course. If the entire board does not attend, those members who do attend shall so far as possible be persons who have not previously attended a similar training course.

Sec. 45. Section 50.11, Code 2001, is amended to read as follows:

50.11 PROCLAMATION OF RESULT.

When the canvass is completed one of the precinct election officials shall publicly announce the total number of votes received by each of the persons voted for, the office for which the person is designated, as announced by the designated tally keepers, and the number of votes for, and the number of votes against, any proposition which shall have been submitted to a vote of the people, ~~and the~~. A precinct election official shall communicate said information ~~the election results~~ by telephone or telegraph or in person to the commissioner who is conducting the election immediately upon completion of the canvass; and the,

Election results may be transmitted electronically from voting equipment to the commissioner's office only after the precinct election officials have produced a written report of the election results. The devices used for the electronic transmission of election results shall be approved for use by the board of examiners pursuant to section 52.41. The state commissioner of elections shall adopt rules establishing procedures for the electronic transmission of election results.

The commissioner shall remain on duty until such information is communicated to the commissioner from each polling place in the commissioner's county.

Sec. 46. Section 50.12, Code 2001, is amended to read as follows:

50.12 RETURN AND PRESERVATION OF BALLOTS.

Immediately after making the proclamation, and before separating, the board members of each precinct in which votes have been received by paper ballot shall enclose in an envelope or other container all ballots which have been counted by them, except those endorsed "Rejected as double", "Defective", or "Objected to", and securely seal the envelope. The signatures of all board members of the precinct shall be placed across the seal or the opening of the container so that it cannot be opened without breaking the seal. The precinct election officials shall return all the ballots to the commissioner, who shall carefully preserve them for six months. Ballots from elections for federal offices shall be preserved for twenty-two months. The sealed packages containing voted ballots shall be opened only for an official recount authorized by section 50.48, 50.49, or 50.50, for an election contest held pursuant to chapters 57 through 62, or to destroy the ballots pursuant to section 50.19.

Sec. 47. Section 50.48, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The candidate requesting a recount under this section shall post a bond, unless the abstracts prepared pursuant to section 50.24, or section 43.49 in the case of a primary election, indicate that the difference between the total number of votes cast for the apparent winner and the total number of votes cast for the candidate requesting the recount is less than the greater of fifty votes or one percent of the total number of votes cast for the office or nomination in question. If a recount is requested for an office to which more than one person was elected, the vote

difference calculations shall be made using the difference between the number of votes received by the person requesting the recount and the number of votes received by the apparent winner who received the fewest votes. Where votes cast for that office or nomination were canvassed in more than one county, the abstracts prepared by the county boards in all of those counties shall be totaled for purposes of this subsection. If a bond is required, it shall be filed with the state commissioner for recounts involving a state office, including a seat in the general assembly, or a seat in the United States Congress, and with the commissioner responsible for conducting the election in all other cases, and shall be in the following amount:

Sec. 48. Section 50.49, unnumbered paragraph 4, Code 2001, is amended to read as follows:

The petitioners requesting the recount shall post a bond as required by section 50.48, subsection 2. The amount of the bond shall be one thousand dollars for a public measure appearing on the ballot statewide or one hundred dollars for any other public measure. If the difference between the affirmative and negative votes cast on the public measure is less than the greater of fifty votes or one percent of the total number of votes cast for and against the question, a bond is not required. If approval by sixty percent of the votes cast is required for adoption of the public measure, no bond is required if the difference between sixty percent of the total votes cast for and against the question and the number of votes cast for the losing side is less than the greater of fifty votes or one percent of the total number of votes cast.

Sec. 49. Section 50.50, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The commissioner who was responsible for conducting an election may request an administrative recount when the commissioner suspects that voting equipment used in the election malfunctioned or that programming errors may have affected the outcome of the election, or if the precinct election officials report counting errors to the commissioner after the conclusion of the canvass of votes in the precinct. An administrative recount shall be conducted by the board of the special precinct established by section 53.23. Bond shall not be required for an administrative recount. The state commissioner may adopt rules for administrative recounts.

Sec. 50. Section 52.1, subsection 2, paragraphs a, b, and f, Code 2001, are amended to read as follows:

a. "Automatic tabulating equipment" means apparatus, including but not limited to electronic data processing machines, which may be utilized to ascertain the manner in which either special paper ballots ~~or ballot cards~~ have been marked by voters, and count the votes marked thereon.

b. "Ballot" includes a special paper ballot ~~and a ballot card and its associated ballot label.~~ In appropriate contexts, "ballot" also includes conventional paper ballots.

f. "Electronic voting system" means a system employing special paper ballots ~~or ballot cards and ballot labels,~~ under which votes are:

- (1) Cast by voters by marking special paper ballots with a vote marking device, ~~or by marking ballot cards by use of a voting punch device;~~ and
- (2) Thereafter counted by use of automatic tabulating equipment.

Sec. 51. Section 52.1, subsection 2, paragraphs c, d, and k, Code 2001, are amended by striking the paragraphs.

Sec. 52. Section 52.25, unnumbered paragraphs 1 and 2, Code 2001, are amended to read as follows:

The question of a constitutional convention, amendments, and public measures including bond issues may be voted on voting machines and on special paper ballots ~~and ballot cards~~ in the following manner:

The entire convention question, amendment or public measure shall be printed and displayed prominently in at least four places within the voting precinct, and inside each voting booth, or on the left-hand side inside the curtain of each voting machine, the printing to be in conformity with the provisions of chapter 49. The public measure shall be summarized by the commissioner and in the largest type possible printed on the special paper ballots, ballot cards, or inserts used in the voting machines, except that:

Sec. 53. Section 52.26, subsections 5, 6, and 7, Code 2001, are amended to read as follows:

5. Be so constructed or designed that in presidential elections the voter casts a vote for the presidential electors of any party or political organization by a single mark or punch made opposite the name of the candidates of that party or organization for the offices of both president and vice president of the United States, and so that the voter is also provided the opportunity to write in the name of any person for whom the voter desires to vote for president or vice president of the United States.

6. Be so constructed or designed as to permit voting for candidates for nomination or election of at least seven different political parties or organizations, and to permit voting for all of the candidates of any one political party or organization by a single mark or punch, at any one election.

7. ~~The voting punch device shall be so constructed and designed so if an elector makes an error in marking the ballot, the machine shall indicate the error and permit the elector to make a correction according to the provisions of section 52.30, subsection 4. A punch card voting system shall not be approved for use.~~

Sec. 54. Section 52.27, Code 2001, is amended to read as follows:

52.27 COMMISSIONER TO PROVIDE ELECTRONIC VOTING EQUIPMENT.

The commissioner having jurisdiction of any precinct for which the board of supervisors has adopted voting by means of an electronic voting system shall, as soon as practicable thereafter, provide for use at each election held in the precinct special paper ballots and vote marking devices, ~~or ballot cards, ballot labels and voting punch devices, as the case may be,~~ in appropriate numbers. The commissioner shall have custody of all equipment required for use of the electronic voting system, and shall be responsible for maintaining it in good condition and for storing it between elections. All provisions of chapter 49 relative to times and circumstances under which voting machines are to be used in any election and the number of voting machines to be provided shall also govern the use of electronic voting systems, when applicable.

Sec. 55. Section 52.28, subsection 1, Code 2001, is amended to read as follows:

1. The commissioner of each county in which the use of an electronic voting system in one or more precincts has been authorized shall determine the arrangement of candidates' names and public questions upon the ballot or ballots used with the system. ~~The ballot information, whether placed on the special paper ballot, the ballot card or the ballot label,~~ shall be arranged as required by chapters 43 and 49, and by any relevant provisions of any statutes which specify the form of ballots for special elections, so far as possible within the constraints of the physical characteristics of the electronic voting system in use in that county. The state commissioner may adopt rules requiring a reasonable degree of uniformity among counties in arrangement of electronic voting system ballots.

Sec. 56. Section 52.28, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 57. Section 52.29, Code 2001, is amended to read as follows:

52.29 ELECTRONIC VOTING SYSTEM SAMPLE BALLOTS.

The commissioner shall provide for each precinct where an electronic voting system is in use at least four sample special paper ballots, ~~or combinations of ballot cards and ballot labels, as the case may be,~~ which shall be exact copies of the official ballots as printed for that precinct. The sample ballots shall be arranged in the form of a diagram showing the special paper ballot

or the front of the voting punch device, as the case may be, as it will appear to the voter in that precinct on election day. The sample ballots shall be posted prominently within the polling place, and shall be open to public inspection during the hours the polls are open on election day.

Sec. 58. Section 52.33, unnumbered paragraph 1, Code 2001, is amended to read as follows:

In any county in which the board of supervisors has adopted voting by means of an electronic voting system, the commissioner may elect to also conduct absentee voting by use of such a system if the system so used is compatible with the counting center serving the precinct polling places in the county where voting is by means of an electronic voting system. In any other county, the commissioner may with approval of the board of supervisors conduct absentee voting by use of an electronic voting system. All provisions of chapter 53 shall apply to such absentee voting, so far as applicable. ~~When a ballot card is used for voting by mail it shall be accompanied by a stylus, voter instructions, and a specimen ballot showing the proper positions to vote on the ballot card for each candidate or public question. The card shall be mounted on material suitable to receive the punched out chip.~~ In counties where absentee voting is conducted by use of an electronic voting system, the special precinct counting board shall, at the time required by chapter 53, prepare absentee ballots for delivery to the counting center in the manner prescribed by this chapter.

Sec. 59. Section 52.35, subsection 2, Code 2001, is amended to read as follows:

2. The test shall be conducted by processing a preaudited group of ballots ~~punched or~~ marked so as to record a predetermined number of valid votes for each candidate, and on each public question, on the ballot. The test group shall include for each office and each question one or more ballots having votes in excess of the number allowed by law for that office or question, in order to test the ability of the automatic tabulating equipment to reject such votes. Any observer may submit an additional test group of ballots which, if so submitted, shall also be tested. The state commissioner shall promulgate administrative rules establishing procedures for any additional test group of ballots submitted by an observer. If any error is detected, its cause shall be ascertained and corrected and an errorless count obtained before the automatic tabulating equipment is approved. When so approved, a statement attesting to the fact shall be signed by the commissioner and kept with the records of the election.

Sec. 60. Section 52.37, subsection 1, Code 2001, is amended to read as follows:

1. The sealed ballot container from each precinct shall be delivered to the counting center by two of the election officials of that precinct, not members of the same political party if the ballot contains partisan offices, who shall travel together in the same vehicle and shall have the container under their immediate joint control until they surrender it to the commissioner or the commissioner's designee in charge of the counting center. The commissioner may designate two precinct election officials, of different political parties if the ballot contains partisan offices, to collect the sealed ballot containers from more than one precinct to deliver to the counting center. The commissioner or designee shall, in the presence of the two precinct election officials who delivered the container, enter on a record kept for the purpose that the container was received, the time the container was received, and the condition of the seal upon receipt.

In nonpartisan elections the election officials delivering the ballots are not required to be members of any political party, or to be members of different political parties.

Sec. 61. NEW SECTION. 52.41 ELECTRONIC TRANSMISSION OF ELECTION RESULTS.

With the advice of the board of examiners for voting machines and electronic voting systems, the state commissioner shall adopt by rule standards for the examination and testing of devices for the electronic transmission of election results. All voting systems which contain devices for the electronic transmission of election results submitted to the examiners for examination and testing after July 1, 2003, shall comply with these standards.

Sec. 62. Section 53.8, subsection 1, Code 2001, is amended to read as follows:

1. Upon receipt of an application for an absentee ballot and immediately after the absentee ballots are printed, the commissioner shall mail an absentee ballot to the applicant within twenty-four hours, except as otherwise provided in subsection 3. The absentee ballot shall be enclosed in an unsealed envelope bearing a serial number and affidavit. The absentee ballot and unsealed envelope shall be enclosed in or with a carrier envelope which bears the same serial number as the unsealed envelope. The absentee ballot, unsealed envelope, and carrier envelope shall be enclosed in a third envelope to be sent to the registered voter. If the ballot cannot be folded so that all of the votes cast on the ballot will be hidden, the commissioner shall also enclose a secrecy envelope with the absentee ballot.

Sec. 63. NEW SECTION. 53.10 ABSENTEE VOTING AT THE COMMISSIONER'S OFFICE.

Not more than forty days before the date of the primary election or the general election, the commissioner shall provide facilities for absentee voting in person at the commissioner's office. This service shall also be provided for other elections as soon as the ballots are ready, but in no case shall absentee ballots be available more than forty days before an election.

Each person who wishes to vote by absentee ballot at the commissioner's office shall first sign an application for a ballot including the following information: name, current address, and the election for which the ballot is requested. The person may report a change of address or other information on the person's voter registration record at that time. The registered voter shall immediately mark the ballot, enclose the ballot in a secrecy envelope, if necessary, and seal it in a ballot envelope, subscribe to the affidavit on the reverse side of the envelope, and return the absentee ballot to the commissioner. The commissioner shall record the numbers appearing on the application and ballot envelope along with the name of the registered voter.

During the hours when absentee ballots are available in the office of the commissioner, the posting of political signs is prohibited within thirty feet of the absentee voting site. No electioneering shall be allowed within the sight or hearing of voters at the absentee voting site.

Sec. 64. Section 53.11, unnumbered paragraph 1, Code 2001, is amended by striking the unnumbered paragraph.

Sec. 65. Section 53.11, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Satellite absentee voting stations ~~shall~~ may be established throughout the cities and county at the direction of the commissioner ~~or~~ and shall be established upon receipt of a petition signed by not less than one hundred eligible electors requesting that a satellite absentee voting station be established at a location to be described on the petition. A satellite absentee voting station established by petition must be open at least one day for a minimum of six hours. A satellite absentee voting station established at the direction of the commissioner or by petition may remain open until five p.m. on the day before the election.

Sec. 66. Section 53.11, Code 2001, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Procedures for absentee voting at satellite absentee voting stations shall be the same as specified in section 53.10 for voting at the commissioner's office. Additional procedures shall be prescribed by rule by the state commissioner.

NEW UNNUMBERED PARAGRAPH. During the hours when absentee ballots are available at a satellite absentee voting station, the posting of political signs is prohibited within thirty feet of the satellite absentee voting station. Electioneering shall not be allowed within the sight or hearing of voters at the satellite absentee voting station.

Sec. 67. Section 53.18, Code 2001, is amended to read as follows:

53.18 MANNER OF PRESERVING BALLOT AND APPLICATION.

Upon receipt of the absentee ballot, the commissioner shall at once record the number appearing on the application and return carrier envelope and time of receipt of such ballot and attach the elector's application to the unopened envelope. Absentee ballots shall be stored in

a secure place until they are delivered to the absentee and special voters precinct board.

Sec. 68. Section 53.19, unnumbered paragraph 3, Code 2001, is amended to read as follows:

However, any registered voter who has received an absentee ballot and not returned it, may surrender the absentee ballot to the precinct officials and vote in person at the polls. The precinct officials shall mark the uncast absentee ballot "void" and return it to the commissioner. Any registered voter who has been sent an absentee ballot by mail but for any reason has not received it or who has not brought the ballot to the polls, may appear at the voter's precinct polling place on election day and sign an affidavit to that effect, after which the voter shall be permitted to vote in person. Such voter shall cast a ballot in accordance with section 49.81. ~~The form of the affidavit for use in such cases shall be prescribed by the state commissioner.~~

Sec. 69. Section 53.30, Code 2001, is amended to read as follows:

53.30 BALLOT ENVELOPE PRESERVED.

At the conclusion of each meeting of the absentee and special voter's precinct board, the board shall securely seal all ballots counted by them in the manner prescribed in section 50.12. The ballot envelopes, including the envelope having the registered voter's affidavit thereon on it, the return carrier envelope, and secrecy envelope bearing the signatures of precinct election officials, as required by section 53.23, shall be preserved. All applications for absentee ballots, ballots rejected without being opened, absentee ballot logs, and any other documents pertaining to the absentee ballot process shall be preserved until such time as the documents may be destroyed pursuant to section 50.19.

Sec. 70. Section 53.38, Code 2001, is amended to read as follows:

53.38 AFFIDAVIT WHAT CONSTITUTES REGISTRATION.

Whenever a ballot is requested pursuant to section 53.39 or 53.45 on behalf of a voter in the armed forces of the United States, the affidavit upon the ballot envelope of such voter, if the voter is found to be an eligible elector of the county to which the ballot is submitted, shall constitute a sufficient registration under ~~the provisions of chapter 48A and the~~ A completed federal postcard registration and federal absentee ballot request form submitted by such eligible elector shall also constitute a sufficient registration under chapter 48A. The commissioner shall place the voter's name on the registration record as a registered voter, if it does not already appear there.

Sec. 71. Section 53.40, unnumbered paragraph 1, Code 2001, is amended to read as follows:

A request in writing for a ballot may be made by any member of the armed forces of the United States who is or will be a qualified voter on the day of the election at which the ballot is to be cast, at any time before the election. Any member of the armed forces of the United States may request ballots for all elections to be held within a calendar year. The request may be made by using the federal postcard application form and indicating that the applicant wishes to receive ballots for all elections as permitted by state law. The county ~~auditor~~ commissioner shall send the applicant a ballot for each election held during the calendar year in which the application is received. The commissioner shall forward a copy of the absentee ballot request to other commissioners who are responsible under section 47.2, subsection 2, for conducting elections in which the applicant is eligible to vote.

Sec. 72. Section 57.1, subsection 2, Code 2001, is amended by adding the following new paragraph after paragraph f and relettering the subsequent paragraphs:

NEW PARAGRAPH. g. That the public measure or office was not authorized or required by state law to appear on the ballot at the election being contested.

Sec. 73. Section 60.4, Code 2001, is amended to read as follows:

60.4 STATEMENT.

The contestant shall file the statement provided for in chapter 62 in the office of the secretary

of state within ~~ten~~ two days from the day on which the returns are canvassed by the state board of canvassers, and, within the same time, serve a copy of the same, with a notice of the contest, on the incumbent in the manner provided by the rules of civil procedure for service of an original notice.

Sec. 74. Section 60.5, Code 2001, is amended to read as follows:

60.5 ORGANIZATION AND TRIAL.

The clerk of the court shall, immediately after the filing of the statement, notify the judges herein named, and fix a day for the organization of the court within ~~three~~ two days thereafter, and also notify the parties to the contest. The judges shall meet on the day fixed, and organize the court, and make and announce such rules for the trial of the case as they shall think necessary for the protection of the rights of each party and a just and speedy trial of the case, and commence the trial of the case as early as practicable thereafter, and so arrange for and conduct the trial that a final determination of the same and judgment shall be rendered at least six days before the first Monday after the second Wednesday in December next following.

Sec. 75. NEW SECTION. 62.5A STATEMENT OF INTENT TO CONTEST.

1. Within twenty days after the board of supervisors declares a winner from the canvass of an election, the contestant shall file with the commissioner a written statement of intention to contest the election. If a recount is held for the office in question, and the recount board finds that the winner was someone other than the person declared at the original canvass of votes, a contest may be filed within twenty days after the board of supervisors declares a winner from the recount of votes.

2. The contestant's statement shall include the following:

- a. The name of the contestant and that the contestant is qualified to hold such office.
- b. The name of the incumbent.
- c. The office contested.
- d. The date of the election.
- e. The particular causes of the contest pursuant to section 57.1, subsection 2. If a cause of the contest is an allegation that illegal votes were received or that legal votes were rejected, a statement shall be included setting forth the names of the persons who are alleged to have voted illegally or whose votes were rejected and the precinct where they voted or offered to vote.
- f. The affidavit of the contestant, or some elector of the county, affirming the causes set forth are true.

Sec. 76. Section 63.8, Code 2001, is amended to read as follows:

63.8 VACANCIES — TIME TO QUALIFY.

Persons elected or appointed to fill vacancies, and officers entitled to hold over to fill vacancies occurring through a failure to elect, appoint, or qualify, as provided in chapter 69, shall qualify within ten days from the county board's canvass of such election, or within ten days from such appointment, or failure to elect, appoint, or qualify, in the same manner as those originally elected or appointed to such offices.

Sec. 77. Section 69.2, Code Supplement 2001, is amended to read as follows:

69.2 WHAT CONSTITUTES VACANCY.

1. Every civil office shall be vacant if any of the following events occur:

- ~~1.~~ a. A failure to elect at the proper election, or to appoint within the time fixed by law, unless the incumbent holds over.
- ~~2.~~ b. A failure of the incumbent or holdover officer to qualify within the time prescribed by law.
- ~~3.~~ c. The incumbent ceasing to be a resident of the state, district, county, township, city, or ward by or for which the incumbent was elected or appointed, or in which the duties of the office are to be exercised. This subsection shall not apply to appointed city officers.

4. d. The resignation or death of the incumbent, or of the officer-elect before qualifying.
5. e. The removal of the incumbent from, or forfeiture of, the office, or the decision of a competent tribunal declaring the office vacant.
6. f. The conviction of the incumbent of a felony, an aggravated misdemeanor, or of any public offense involving the violation of the incumbent's oath of office.
7. g. The board of supervisors declares a vacancy in an elected county office upon finding that the county officer has been physically absent from the county for sixty consecutive days except in the case of a medical emergency; temporary active military duty; or temporary service with another government service, agency, or department.
8. h. The incumbent simultaneously holding more than one elective office at the same level of government. This subsection does not apply to the county agricultural extension council or the soil and water conservation district commission.
9. i. An incumbent statewide elected official or member of the general assembly simultaneously holding more than one elective office.

2. If the status of an officeholder is in question, the entity or officer responsible for making an appointment to fill the vacancy shall decide whether a vacancy exists. The appointing entity or officer may act upon its own motion. If a petition signed by twenty-five registered voters of the jurisdiction is received, the appointing entity or officer shall convene within thirty days to consider whether a vacancy exists. The appointing entity or officer shall publish notice that a public hearing will be held to determine whether a vacancy exists. The notice shall include the time and place of the hearing and the name of the office and the officeholder whose status is in question. The public hearing shall be held not less than four nor more than fourteen days after publication of the notice. The officer whose status is in question shall be notified of the time and place of the hearing. Notice shall be sent by certified mail and must be postmarked at least fourteen days before the hearing. No later than seven days after the public hearing, the appointing entity or officer shall publish its decision. If the appointing entity or officer decides that the office is vacant, the publication shall state the date the vacancy occurred and what action will be taken to fill the vacancy.

3. The officer against whom the judgment was rendered may appeal to the district court no later than twenty days after official publication of the decision. However, the appeal will not supersede the execution of the judgment of the appointing entity or officer, unless the party gives a bond, with security to be approved by the district judge in a sum to be fixed by the judge. The amount of the bond shall be at least double the probable compensation of such officer for six months, which bond shall be conditioned that the officer will prosecute the appeal without delay, and that, if the judgment appealed from is affirmed, the party will pay over to the successful party all compensation received by the party while in possession of the office after the judgment appealed from was rendered. The court shall hear the appeal in equity and determine anew all questions arising in the case.

4. If, upon appeal, the judgment is affirmed, the district court may render judgment upon the bond for the amount of damages awarded against the appellant and the sureties on the bond.

Sec. 78. Section 69.12, subsection 1, paragraph a, Code 2001, is amended to read as follows:

- a. A vacancy shall be filled at the next pending election if it occurs:
 - (1) Seventy-four or more days ~~prior to~~ before the election, if it is a general ~~or primary~~ election.
 - (2) Fifty-two or more days ~~prior to~~ before the election, if it is a regularly scheduled or special city election. However, for those cities which may be required to hold a primary election, the vacancy shall be filled at the next pending election if it occurs seventy-three or more days before a regularly scheduled or special city election.
 - (3) Forty-five or more days ~~prior to~~ before the election, if it is a regularly scheduled school election.
 - (4) Forty or more days ~~prior to~~ before the election, if it is a special election.

Sec. 79. Section 69.12, subsection 1, paragraph b, Code 2001, is amended to read as follows:

b. Nomination papers on behalf of candidates for a vacant office to be filled pursuant to paragraph "a" of this subsection shall be filed, in the form and manner prescribed by applicable law, by five o'clock p.m. on:

(1) The final filing date for candidates filing with the state commissioner or commissioner, as the case may be, for a general or primary election.

(2) The ~~forty-seventh day prior to~~ candidate filing deadline specified in section 376.4 for a regularly scheduled or special city election.

(3) The fortieth day ~~prior to~~ before a regularly scheduled school election.

(4) The twenty-fifth day ~~prior to~~ before a special election.

Sec. 80. Section 69.14A, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 4. Notwithstanding subsections 1 and 2, if a nomination has been made at the primary election for an office in which a vacancy has been filled by appointment, the office shall be filled at the next general election, and not at any special election in the same political subdivision.

Sec. 81. Section 275.12, subsections 3 and 4, Code Supplement 2001, are amended to read as follows:

3. If the petition proposes the division of the school district into director districts, the boundaries of the proposed director districts shall ~~not be described in the petition and shall be drawn until the question is approved by the voters. If the question is approved by the voters, the directors of the new school district shall draw the boundaries of the director districts~~ according to the standards described in section 275.23A, subsection 1. Following adoption by the school board, the plan shall be submitted to the state commissioner of elections for approval.

4. The area education agency board in reviewing the petition as provided in sections 275.15 and 275.16 shall review the proposed method of election of school directors and may change or amend the plan in any manner, including ~~the changing of boundaries of director districts if proposed, or to specify a different method of electing school directors as may be required by law, justice, equity, and the interest of the people. In the action, the area education agency board shall follow the same procedure as is required by sections 275.15 and 275.16 for other action on the petition by the area education agency board. The area education agency shall ascertain that director district boundary lines comply with the provisions of section 275.23A, subsection 1, and shall make adjustments as necessary.~~

Sec. 82. Section 275.25, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If the proposition to establish a new school district carries under the method provided in this chapter, the area education agency administrator with whom the petition was filed shall give written notice of a proposed date for a special election for directors of the newly formed school district to the commissioner of elections of the county in the district involved in the reorganization which has the greatest taxable base. The proposed date shall be as soon as possible pursuant to section 39.2, subsections 1 and 2, and section 47.6, subsections 1 and 2, but not later than the third Tuesday in January of the calendar year in which the reorganization takes effect. The election shall be conducted as provided in section 277.3, and nomination petitions shall be filed pursuant to section 277.4, except as otherwise provided in this subsection. Nomination petitions shall be filed with the secretary of the board of the existing school district in which the candidate resides, ~~signed by not less than ten eligible electors of the newly formed district, and filed not less than twenty-eight days before the date set for the special school election. The school secretary of the board, or the secretary's designee, shall be present in the secretary's office until five p.m. on the final day to file the nomination papers. The nomination papers shall be delivered to the commissioner no later than five p.m. on the twenty-seventh day before the election.~~

Sec. 83. Section 275.35, Code 2001, is amended to read as follows:

275.35 CHANGE OF METHOD OF ELECTIONS.

Any existing or hereafter created or enlarged school district may change the number of directors to either five or seven and may also change its method of election of school directors to any method authorized by section 275.12 by submission of a proposal, stating the proposed new method of election and describing the boundaries of the proposed director districts if any, by the school board of such district to the electors at any regular or special school election. The school board shall notify the county commissioner of elections who shall publish notice of the election in the manner provided in section 49.53. The election shall be conducted pursuant to chapters 39 to 53 by the county commissioner of elections. Such proposal shall be adopted if it is approved by a majority of the votes cast on the proposition.

If the proposal adopted by the voters requires the establishment of or change in director district boundaries, the school board shall draw the necessary boundaries within forty days after the date of the election. The boundaries shall be drawn according to the requirements of section 275.23A. Following adoption by the school board, the plan shall be submitted to the state commissioner of elections for approval.

Sec. 84. Section 275.36, Code 2001, is amended to read as follows:

275.36 SUBMISSION OF CHANGE TO ELECTORS.

If a petition for a change in the number of directors or in the method of election of school directors, ~~describing the boundaries of the proposed director districts, if any, signed by eligible electors of the school district equal in number to at least thirty percent of those who voted in the last previous annual school election in the school district, but not less than one hundred persons, and accompanied by affidavit as required by section 275.13 be is~~ filed with the school board of a school district, ~~not earlier than six months and not later than sixty-seven days before a regular or special school election pursuant to the requirements of section 278.2,~~ the school board shall submit such proposition to the voters at the regular school election or a special election held not later than February 1. The petition shall be accompanied by an affidavit as required by section 275.13. If a proposition for a change in the number of directors or in the method of election of school directors submitted to the voters under this section is rejected, it shall not be resubmitted to the voters of the district in substantially the same form within the next three years; if it is approved, no other proposal may be submitted to the voters of the district under this section within the next six years.

If the proposal adopted by the voters requires the establishment of or a change in director district boundaries pursuant to section 275.12, subsection 2, paragraph "b", "c", "d", or "e", the school board shall draw the necessary boundaries within forty days after the date of the election. The boundaries shall be drawn according to the requirements of section 275.23A. Following adoption by the school board, the plan shall be submitted to the state commissioner of elections for approval. The new boundaries shall become effective on July 1 following approval.

Sec. 85. Section 275.37, Code 2001, is amended to read as follows:

275.37 INCREASE IN NUMBER OF DIRECTORS.

At the next succeeding annual school election in a district where the number of directors has been increased from five to seven, and directors are elected at large, there shall be elected a director to succeed each incumbent director whose term is expiring in that year, and two additional directors. Upon organizing as required by section 279.1, the newly elected director who received the fewest votes in the election shall be assigned a term of either one year or two years if necessary in order that as nearly as possible one-third of the members of the board shall be elected each year. If some or all directors are elected from director districts, the board shall assign terms appropriate for the method of election used by the district.

Sec. 86. NEW SECTION. 275.37A DECREASE IN NUMBER OF DIRECTORS.

1. A change from seven to five directors shall be effected in a district at the first regular school election after authorization by the voters in the following manner:

a. If at the first election in the district there are three terms expiring, one director shall be

elected. At the second election in that district, if two terms are expiring, two directors shall be elected. At the third election in that district, if there are two terms expiring, two directors shall be elected.

b. If at the first election there are two terms expiring, no directors shall be elected. At the second election in that district, if two terms are expiring, two directors shall be elected. At the third election in that district, if there are three terms expiring, three directors shall be elected, two for three years and one for one year. The newly elected director who received the fewest votes in the election shall be assigned a term of one year.

c. If at the first election there are two terms expiring, no directors shall be elected. At the second election in that district, if three terms are expiring, three directors shall be elected, two for three years and one for two years. The newly elected director who received the fewest votes in the election shall be assigned a term of two years. At the third election in that district, if there are two terms expiring, two directors shall be elected.

2. If some or all of the directors are elected from director districts, the board shall devise a plan to reduce the number of members so that as nearly as possible one-third of the members of the board shall be elected each year and so that each district will be continuously represented.

Sec. 87. Section 275.55, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The board of the school district shall call a special election to be held not later than forty days following the date of the final hearing on the dissolution proposal. The special election may be held at the same time as the regular school election. The proposition submitted to the voters residing in the school district at the special election shall describe each separate area to be attached to a contiguous school district and shall name the school district to which it will be attached. In addition to the description, a map may be included in the summary of the question on the ballot.

Sec. 88. NEW SECTION. 275.57 CHANGING DIRECTOR DISTRICT BOUNDARIES FOLLOWING DISSOLUTION.

1. If a school district accepting attachments of a dissolved district is currently divided into director districts as provided in section 275.12, subsection 2, paragraph "b", "c", "d", or "e", the board of directors of the district shall draft a proposal to incorporate the newly received territory into existing contiguous director districts. If the attached territory is contiguous to more than one director district, the board may divide the territory and attach it to more than one director district. If necessary to comply with the population equality standards prescribed in section 275.23A, the board shall redraw the boundaries of all director districts according to the standards provided in section 275.23A, subsection 1, paragraphs "a", "c", and "d".

2. A public hearing on the proposed changes to director districts shall be held no later than May 15 following the dissolution. Not less than ten nor more than twenty days before the public hearing, the board shall publish notice of the time and place of the hearing.

3. The final plan for the assignment of attached lands and any other boundary changes made shall be adopted by resolution of the board. The resolution shall contain a legal description of the new director district boundaries and a map of the director district boundaries changed by the resolution. A copy of the resolution shall be filed with the county commissioners of elections of each county in which a portion of the school district is located. The resolution shall also be filed with the state commissioner of elections not later than June 15. The boundary changes shall take effect upon approval by the state commissioner of elections for the next regular school election, but not later than July 1.

Sec. 89. Section 277.23, Code 2001, is amended to read as follows:
277.23 DIRECTORS — NUMBER — CHANGE.

In any district including all or part of a city of fifteen thousand or more population and in

any district in which the voters have authorized seven directors, the board shall consist of seven members; in all other districts the board shall consist of five members.

A change from five to seven directors shall be effected in a district at the first regular election after authorization by the voters or when a district becomes wholly or in part within a city of fifteen thousand population or more in the following manner: ~~If the term of one director of the five-member board expires at the time of said regular election, three directors shall be elected to serve until the third regular election thereafter; if the terms of two directors expire at the time of said regular election, three directors shall be elected to serve until the third regular election thereafter and one director shall be elected to serve a term the expiration of which coincides with the expiration of the term of the director heretofore singly elected described in section 275.37.~~

Sec. 90. Section 278.1, subsection 8, Code 2001, is amended to read as follows:

8. Authorize a change in the method of conducting elections or in the number of directors as provided in sections 275.35 and 275.36. If a proposition submitted to the voters under this subsection or subsection 7 is rejected, it may not be resubmitted to the voters of the district in substantially the same form within the next three years; if it is approved, no other proposal may be submitted to the voters of the district under this subsection or subsection 7 within the next six years. The establishment or abandonment of director districts or a change in the boundaries of director districts shall be implemented as prescribed in section 275.37.

Sec. 91. Section 279.6, unnumbered paragraph 2, Code 2001, is amended to read as follows:

~~However, A vacancy shall be filled at the next regular school election if a member of a school board resigns from the board prior to the time for filing nomination papers for office as a school board member, as provided in section 277.4, not later than forty-five days before the election and the notice of resignation specifies in the resignation that the resignation will be an effective on the date at the beginning of the next term of office for elective school officials begins, the.~~ The president of the board shall declare the office vacant as of that the date and nomination of the next organizational meeting. Nomination papers shall be received for the unexpired term of the resigning member. The person elected at the next regular school election to fill the vacancy shall take office at the same time and place as the other elected school board members.

Sec. 92. Section 296.3, Code 2001, is amended to read as follows:

296.3 ELECTION CALLED.

~~The Within ten days of receipt of a petition filed under section 296.2, the president of the board of directors, within ten days of receipt of a petition under section 296.2, shall call a meeting of the board which shall. The meeting shall be held within thirty days after the petition was received. At the meeting, the board shall call the election, fixing the time of the election, which may be at the time and place of holding the regular school election, unless. However, if the board determines by unanimous vote that the proposition or propositions requested by a petition to be submitted at an election are grossly unrealistic or contrary to the needs of the school district, no election shall be called. If more than one petition has been received by the time the board meets to consider the petition triggering the meeting, the board shall act upon the petitions in the order they were received at the meeting called to consider the initial petition.~~ The decision of the board may be appealed to the state board of education as provided in chapter 290. The president shall notify the county commissioner of elections of the time of the election.

Sec. 93. Section 331.207, subsection 2, Code 2001, is amended to read as follows:

2. The petition shall be filed with the ~~auditor~~ county commissioner by ~~January~~ June 1 of a ~~general election an odd-numbered~~ year, subject to subsection 5. The special election shall be held ~~at least one hundred days before the primary election within sixty days after the day the petition was received.~~ Notice of the special election shall be published once each week for

three successive weeks in an official newspaper of the county, shall state the representation plans to be submitted to the electors, and shall state the date of the special election which shall be held not less than five nor more than twenty days from the date of last publication.

Sec. 94. Section 331.207, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 4A. If the plan adopted by a plurality of the ballots cast in the special election represents a change from plan "one" to plan "two" or "three", or from plan "two" to plan "three", as each plan is defined in section 331.206, the temporary county redistricting commission shall divide the county into districts as provided in sections 331.209 and 331.210. The plan shall be completed not later than September 15 following the special election and shall be submitted to the state commissioner of elections. The plan shall become effective January 1.

Sec. 95. Section 331.651, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The office of sheriff is an elective office ~~except that.~~ However, if a vacancy occurs in the office, the first deputy shall assume the office after qualifying as provided in this section ~~and.~~ The first deputy shall hold the office until a successor is appointed or elected to the unexpired term as provided in chapter 69. If a sheriff is suspended from office, the district court may appoint a sheriff until a temporary appointment is made by the board as provided in section 66.19.

Sec. 96. Section 336.2, unnumbered paragraphs 3, 4, and 5, Code Supplement 2001, are amended to read as follows:

The board of supervisors of each county and the city council of each city containing area within the proposed district shall submit the ~~proposition question~~ to the registered voters within their respective counties and cities at ~~any the next general or primary election, provided said election occurs.~~ The petition shall be filed not less than forty eighty-two days after the filing of the petition before the election.

A library district shall be established if a majority of the electors voting on the ~~proposition question~~ and residing 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 library district unless a majority of its electors voting on the ~~proposition question~~ favor its inclusion. In such cases the boundaries of an established district may vary from those of the proposed district.

Sec. 97. Section 336.16, unnumbered paragraph 4, Code Supplement 2001, is amended to read as follows:

A library district may be terminated if a majority of the electors of the unincorporated area of the county and the cities included in the 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.

Sec. 98. Section 336.18, subsection 2, Code Supplement 2001, is amended to read as follows:

2. 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 the question~~ to terminate which shall be submitted by the governing body upon a written petition of 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.

b. The ~~proposition question~~ may be submitted at any election provided by law which covers the area of the unit seeking to terminate the contract. The petition shall be presented to the governing body not less than ~~forty ten~~ days before the last day candidates may file nomination petitions for the election at which the question is to be submitted.

Sec. 99. Section 336.18, subsection 4, paragraphs a, b, and c, Code Supplement 2001, are amended to read as follows:

a. 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 question~~ of requiring the board to provide library service for them and their area by contract as provided by this section.

b. The board of supervisors shall submit the ~~proposition question~~ to the voters of the county residing outside of cities at the next ~~general~~ election, ~~primary or general~~, ~~provided that the petition has been.~~ ~~The petition shall be filed not less than forty ten days prior to the date of before the last day candidates may file nomination petitions for~~ the election at which the question is to be submitted.

c. If a majority of those voting upon the ~~proposition question~~ favors it, the board of supervisors shall within thirty days appoint a board of library trustees from residents of the petitioning area. Vacancies shall be filled by the board.

Sec. 100. Section 346.27, subsection 10, Code 2001, is amended to read as follows:

10. After the incorporation of an authority, and before the sale of any issue of revenue bonds, except refunding bonds, the authority shall ~~submit in a single countywide call an~~ election to the registered voters of the city and county, at a ~~general, primary, or special~~ election called for that purpose, ~~decide~~ the question of whether ~~an the~~ authority shall issue and sell revenue bonds, stating. ~~The ballot shall state~~ the amount, ~~for any of the bonds and~~ the purposes for which ~~it the~~ authority is incorporated. Registered voters of the city and the unincorporated area of the county shall be entitled to vote on the question. The question may be submitted at a general election or at a special election. An affirmative vote of a majority of the votes cast on the ~~proposition question~~ is required to authorize the issuance and sale of revenue bonds.

PARAGRAPH DIVIDED. ~~A In addition to the notice required by section 49.53, a notice of the election shall be published once each week for at least two weeks in some newspaper published in the county stating the date of the election, the hours the polls will be open, and a copy of the question. The notice shall name the time when the question shall be submitted, and a copy of the question to be submitted shall be posted at each polling place during the day of election. The authority shall call this election with the concurrence of both incorporating units, and it shall establish the voting precincts and polling places, and appoint the election judges, and in so doing such election procedures shall be. The election shall be conducted by the commissioner in accordance with the provisions of chapters 49 and 50.~~

Sec. 101. Section 346.27, subsection 25, Code 2001, is amended to read as follows:

25. When all bonds issued by an authority have been retired, the authority may convey the title to the property owned by the authority to the incorporating units in accordance with the provisions ~~therefor~~ contained in the articles of incorporation, ~~or, if none,~~ If articles of incorporation do not exist, the conveyance may be made in accordance with any agreement adopted by the respective governing bodies of the incorporating units, and the authority.

PARAGRAPH DIVIDED. ~~The proposition question of whether a conveyance shall be made shall be submitted to the legal registered voters of the city and the unincorporated area of the county, utilizing the election procedures provided for bond issues, and an. An affirmative vote equal to at least a majority of the total votes cast on the proposition question shall be required to authorize the conveyance. If the proposition question does not carry, the authority shall continue to operate, maintain, and manage the building under a lease arrangement with the incorporating units.~~

Sec. 102. Section 359.17, Code Supplement 2001, is amended to read as follows:

359.17 TRUSTEES — DUTIES — MEETINGS.

The board of township trustees in each township shall consist of three registered voters of the township. However, in townships with a taxable valuation for property tax purposes of two

hundred fifty million dollars or more, the board of township trustees shall consist of five 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. 103. Section 372.9, subsection 2, Code 2001, is amended to read as follows:

2. When a charter is filed, the council and mayor shall notify the county commissioner of elections to publish notice containing the full text of the proposed home rule charter, a description of any other form of government being presented to the voters, and the date of the election, and to conduct the election. The notice shall be published at least twice in the manner provided in section 362.3, except that the publications must occur within sixty days of the filing of the home rule charter, with a two-week interval between each publication. The council shall provide copies of a proposed charter for public distribution by the city clerk.

Sec. 104. Section 372.13, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. By a special election held to fill the office for the remaining balance of the unexpired term. If the council opts for a special election or a valid petition is filed under paragraph "a", the special election may be held concurrently with any pending election as provided by section 69.12 if by so doing the vacancy will be filled not more than ninety days after it occurs. Otherwise, a special election to fill the office shall be called at the earliest practicable date. If there are concurrent vacancies on the council and the remaining council members do not constitute a quorum of the full membership, a special election shall be called at the earliest practicable date. The council shall give the county commissioner at least sixty days' written notice of the date chosen for the special election. The council of a city where a primary election may be required shall give the county commissioner at least eighty-five days' written notice of the date chosen for the special election. A special election held under this subsection is subject to sections 376.4 through 376.11, but the dates for actions in relation to the special election shall be calculated with regard to the date for which the special election is called.

Sec. 105. Section 376.2, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Except as otherwise provided by state law or the city charter, terms for elective offices are two years. However, the term of an elective office may be changed to two or four years by petition and election. Upon receipt of a valid petition as defined in section 362.4, requesting that the term of an elective office be changed, the council shall submit the question at a special city election to be held within sixty days after the petition is received. The special election shall be held more than ninety days before the regular city election if the change shall go into effect at the next regular city election. If a majority of the persons voting at the special election approves the changed term, it becomes effective at the beginning of the term following the next regular city election. If a majority does not approve the changed term, the council shall not submit the same proposal to the voters within the next four years.

Sec. 106. Section 376.6, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Each city clerk shall certify to the commissioner of elections responsible under section 47.2 for conducting elections for that city the type of nomination process to be used for the city no later than ~~seventy-seven~~ ninety days before the date of the regular city election. If the city has by ordinance chosen a runoff election or has chosen to have nominations made in the manner provided by chapter 44 or 45, or has repealed nomination provisions under those sections in preference for the primary election method, a copy of the city ordinance shall be attached. No changes in the method of nomination to be used in a city shall be made after the clerk has filed the certification with the commissioner, unless the change will not take effect until after the next regular city election.

Sec. 107. Section 394.2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

It shall not be necessary to submit to the voters the proposition of issuing bonds for refunding purposes, but prior to the issuance of bonds for other purposes the council shall submit to the voters of the city at a general election or a regular ~~municipal city~~ election the proposition of issuing the bonds. Notice of the election on the proposition of issuing bonds shall be published as required by section 49.53. The notice shall also state whether or not an admission fee is to be charged by the zoo or zoological gardens.

Sec. 108. Section 400.1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

In cities having a population of eight thousand or over and having a paid fire department or a paid police department, the mayor, one year after a regular ~~municipal city~~ election, with the approval of the council, shall appoint three civil service commissioners who shall hold office, one until the first Monday in April of the second year, one until the first Monday in April of the third year, and one until the first Monday in April of the fourth year after such appointment, whose successors shall be appointed for a term of four years. In cities having a population of more than one hundred thousand, the city council may establish, by ordinance, the number of civil service commissioners at not less than three.

Sec. 109. Section 400.3, unnumbered paragraph 2, Code 2001, is amended to read as follows:

~~Whenever~~ If the city council appoints a commission, ~~it the city council~~ may, by ordinance, abolish ~~it the commission~~, and the commission shall stand abolished sixty days from the date of the ordinance and the powers and duties of the commission shall revert to the city council except whenever a city having a population of less than eight thousand provides for the appointment of a civil service commission, ~~it the city council~~ may by ordinance abolish such office, but ~~said the~~ ordinance shall not take effect until ~~it the ordinance~~ has been submitted to the voters at a regular ~~municipal city~~ election and approved by a majority of the voters at such election. The ordinance shall be published once each week for two consecutive weeks preceding the date of ~~said the~~ election in a newspaper published in and having a general circulation in ~~said the~~ city. ~~In the event there is no~~ If a newspaper is not published in such city, publication may be made in any newspaper having general circulation in the county.

Sec. 110. Section 422A.1, unnumbered paragraph 4, Code Supplement 2001, is amended to read as follows:

A city or county shall impose a hotel and motel tax or increase the tax rate, only after an election at which a majority of those voting on the question favors imposition or increase. However, a hotel and motel tax shall not be repealed or reduced in rate if obligations are outstanding which are payable as provided in section 422A.2, unless funds sufficient to pay the principal, interest, and premium, if any, on the outstanding obligations at and prior to maturity have been properly set aside and pledged for that purpose. The election shall be held at the time of ~~that city's~~ the regular city election or the county's general election or at the time of a special election.

Sec. 111. Section 422E.2, subsection 4, paragraph b, unnumbered paragraph 1, Code Supplement 2001, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

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. 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 who reside within the county and the total number of registered voters within the county.

Sec. 112. Section 602.8102, subsection 15, Code Supplement 2001, is amended to read as follows:

15. Monthly, notify the county commissioner of registration and the state registrar of voters of persons seventeen and one-half years of age and older who have been convicted of a felony during the preceding calendar month or persons who at any time during the preceding calendar month have been legally declared to be mentally a person who is incompetent to vote as that term is defined in section 48A.2.

Sec. 113. Section 633.556, subsection 1, Code 2001, is amended to read as follows:

1. If the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of a guardian are proved by clear and convincing evidence, the court may appoint a guardian. If the court appoints a guardian based upon mental incapacity of the proposed ward because the proposed ward is a person described in section 222.2, subsection 4, the court shall make a separate determination as to the ward's competency to vote. The court shall find a ward incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote.

Sec. 114. Sections 52.30, 62.5, and 62.8, Code 2001, are repealed.

Sec. 115. EFFECTIVE AND APPLICABILITY DATE. This Act takes effect January 1, 2003, and applies to elections held on or after that date.

Approved April 26, 2002

CHAPTER 1135

PUBLIC RETIREMENT SYSTEMS

H.F. 2532

AN ACT relating to public retirement systems and providing effective and retroactive applicability dates.

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

DIVISION I

PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM

Section 1. Section 80.36, Code 2001, is amended to read as follows:

80.36 MAXIMUM AGE.

~~The maximum age for a~~ A person ~~to~~ shall not be employed as a peace officer in the department of public safety is after attaining sixty-five years of age.

Sec. 2. Section 97A.6, subsection 6, paragraph c, Code 2001, is amended to read as follows:

c. Upon retirement for accidental disability on or after July 1, 1998, a member shall receive an accidental disability retirement allowance which shall consist of a pension in an amount equal to the greater of sixty percent of the member's average final compensation or the retirement allowance that the member would receive under subsection 2 if the member ~~has~~ had attained fifty-five years of age.

Sec. 3. Section 97A.6, subsection 14, Code 2001, is amended to read as follows:

14. PENSIONS PAYABLE. Pensions payable under this section shall be adjusted as follows:

a. ~~Effective July 1, 1980, and on~~ On each July 1 ~~thereafter and January 1~~, the monthly pensions authorized in this section payable to retired members and to beneficiaries, except children of a deceased member, shall be adjusted as provided in this paragraph. The monthly pension of each retired member and each beneficiary shall be adjusted by adding to that monthly pension an amount equal to the amounts determined in subparagraphs (1) and (2). The adjusted monthly pension of a retired member shall not be less than the amount which was paid at the time of the member's retirement.

(1) An amount equal to the difference between the monthly earnable compensation payable to an active member of the department, of the same rank and position on the salary scale as was held by the retired or deceased member at the time of the member's retirement or death, ~~for July of the preceding year~~ the month for which the last preceding adjustment was made and the monthly earnable compensation payable to an active member of the department of the same rank and position on the salary scale ~~for July of the year just beginning~~ the month for which the adjustment is made shall be multiplied by the following applicable percentage:

(a) Forty percent for members receiving a service retirement allowance and for beneficiaries receiving a pension under subsection 9 of this section.

(b) Forty percent for members with five or more years of membership service who are receiving an ordinary disability retirement allowance.

(c) Twenty-four percent for members with less than five years of membership service who are receiving an ordinary disability retirement allowance, and for beneficiaries receiving a pension under subsection 8 of this section.

(d) Forty percent for members receiving an accidental disability allowance.

The amount added to the monthly pension of a surviving spouse receiving a pension under subsection 12, paragraph "a", of this section shall be equal to one-half the amount that would have been added to the monthly pension of the retired member under this subparagraph.

(2) ~~The~~ For each adjustment occurring on July 1, the following applicable amount determined as follows:

(a) Fifteen dollars where the member's retirement date was less than five years prior to the effective date of the adjustment.

(b) Twenty dollars where the member's retirement date was at least five years, but less than ten years, prior to the effective date of the adjustment.

(c) Twenty-five dollars where the member's retirement date was at least ten years, but less than fifteen years, prior to the effective date of the adjustment.

(d) Thirty dollars where the member's retirement date was at least fifteen years, but less than twenty years, prior to the effective date of the adjustment.

(e) Thirty-five dollars where the member's retirement date was at least twenty years prior to the effective date of the adjustment.

As of ~~the first of July~~ July 1 and January 1 of each year, the monthly pension payable to each surviving child under the provisions of subsections 8, 9, and 12 of this section shall be adjusted to equal six percent of the monthly earnable compensation payable ~~on that July 1 in the month~~ for which the adjustment is made to an active member having the rank of senior patrol officer of the Iowa state patrol.

b. All monthly pensions adjusted as provided in this subsection shall be payable beginning ~~on July 1 of the year~~ the first of the month in which the adjustment is made and shall continue in effect until the next following ~~July 1~~ month in which an adjustment is made pursuant to this subsection at which time the monthly pensions shall again be adjusted in accordance with paragraph "a" of this subsection.

c. The adjustment of pensions required by this subsection shall recognize the retired or deceased member's position on the salary scale within the member's rank at the time of the member's retirement or death. In the event that the rank or position held by the retired or deceased member at the time of retirement or death is subsequently abolished, adjustments in the pensions of the member or of the member's spouse or children shall be computed by the board of

trustees as though such rank or position had not been abolished and salary increases had been granted to such rank or position on the same basis as increases granted to other ranks and positions in the department.

d. A retired member eligible for benefits under the provisions of subsection 1 is not eligible for the annual readjustment of pensions provided in this subsection unless the member served at least twenty-two years prior to the member's termination of employment.

Sec. 4. NEW SECTION. 97A.14A LIABILITY OF THIRD PARTIES — SUBROGATION.

1. If, on or after July 1, 2002, a member receives an injury or dies for which benefits are payable under section 97A.6, subsection 3, 5, 8, or 9, or section 97A.14, and if the injury or death is caused under circumstances creating a legal liability for damages against a third party other than the system, the system, the member, or the member's dependent or the trustee of the dependent, may maintain an action for damages against the third party as provided by this section. If a member, the member's dependent, or the trustee of the dependent commences such an action, the plaintiff member, dependent, or trustee shall serve a copy of the original notice upon the system not less than ten days before the trial of the action, but a failure to serve the notice does not prejudice the rights of the system, and the following rights and duties ensue:

a. The system shall be indemnified out of the recovery of damages to the extent of benefit payments made by the system, with legal interest, except that the attorney fees and expenses of the plaintiff member, dependent, or trustee may be first allowed by the district court.

b. The system has a lien on the damage claim against the third party and on any judgment on the damage claim for benefits for which the system is liable. In order to continue and preserve the lien, the system shall file a notice of the lien within thirty days after receiving a copy of the original notice in the office of the clerk of the district court in which the action is filed.

2. If a member, the member's dependent, or the trustee of the dependent fails to bring an action for damages against a third party within ninety days after the system, through the board of trustees, requests the member, the member's dependent, or the trustee of the dependent in writing to do so, then the system is subrogated to the rights of the member and may, by action of the board of trustees, maintain the action against the third party, and may recover damages for the injury or death to the same extent that the member, the member's dependent, or the trustee of the dependent may recover damages for the injury or death. If the system recovers damages in the action, the court shall enter judgment for distribution of the recovery as follows:

a. A sum sufficient to repay the system for the amount of such benefits actually paid by the system up to the time of the entering of the judgment.

b. A sum sufficient to pay the system the present worth, computed at the interest rate provided in section 535.3 for court judgments and decrees, of the future payments of such benefits for which the system is liable until the member attains the age of fifty-five, but the sum is not a final adjudication of the future payment which the member is entitled to receive.

c. Any balance of the recovery remaining after distribution of the recovery pursuant to paragraphs "a" and "b" shall be paid to the member or the member's beneficiary.

3. Before a settlement is effective between the system and a third party who is liable for any injury, the member, the member's dependent, or the trustee of the dependent must consent in writing to the settlement; and if the settlement is between the member, the member's dependent, or the trustee of the dependent and a third party, the system must consent in writing to the settlement; or on refusal to consent, in either case, the workers' compensation commissioner must consent in writing to the settlement.

4. For purposes of subrogation under this section, a payment made to an injured member, the member's guardian, or the member's legal representative, by or on behalf of a third party or the third party's principal or agent, who is liable for, connected with, or involved in causing the injury or death to the member, shall be considered paid as damages because the injury or death was caused under circumstances creating a legal liability against the third party, whether the payment is made under a covenant not to sue, compromise settlement, denial of liability, or is otherwise made.

5. All funds recovered by the system under this section shall be deposited in the pension accumulation fund created in section 97A.8.

Sec. 5. Section 97A.17, subsection 2, Code 2001, is amended to read as follows:

2. Commencing July 1, 1996, a vested member of an eligible retirement system who terminates employment covered by one eligible retirement system and, within ~~sixty days~~ one year, commences employment covered by the other eligible retirement system may elect to transfer the average accrued benefit earned from the former system to the current system. The member shall file an application with the current system for transfer of the average accrued benefit within ninety days of the commencement of employment with the current system.

Sec. 6. EFFECTIVE DATE — RETROACTIVE APPLICABILITY.

1. The section of this Act amending section 97A.6, subsection 6, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1998.

2. The section of this Act amending section 97A.17, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1996.

DIVISION II IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

Sec. 7. Section 97B.1A, subsection 8, paragraph a, subparagraph (1), Code Supplement 2001, is amended to read as follows:

(1) Elective officials in positions for which the compensation is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions. An elective official covered under this ~~chapter~~ section may terminate membership under this chapter by informing the department in writing of the expiration of the member's term of office or by informing the department of the member's intent to terminate membership for employment as an elective official and establishing that the member has a bona fide termination of employment from all employment covered under this chapter other than as an elective official and that the member has filed a completed application for benefits form with the department. A county attorney is an employee for purposes of this chapter whether that county attorney is employed on a full-time or part-time basis.

Sec. 8. Section 97B.1A, subsection 8, paragraph b, subparagraph (2), Code Supplement 2001, is amended to read as follows:

(2) Graduate medical students while serving as interns or resident doctors in training at any hospital, or county medical examiners and deputy county medical examiners under chapter 331, division V, part 8, who are not full-time county employees.

Sec. 9. Section 97B.1A, subsection 8, paragraph b, Code Supplement 2001, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (9) Persons employed by the Iowa student loan liquidity corporation.

Sec. 10. Section 97B.1A, subsection 24, paragraph a, Code Supplement 2001, is amended to read as follows:

a. "Three-year average covered wage" means, for a member who retires prior to July 1, ~~2003~~ 2005, a member's covered wages averaged for the highest three years of the member's service, except as otherwise provided in this subsection. The highest three years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, the department may determine the wages for the third year by computing the average quarter of all quarters from the member's highest calendar year of covered wages not being used in the selection of the two highest years and using the computed average quarter for each quarter in the third year in

which no wages have been reported in combination with the final quarter or quarters of the member's service to create a full year. However, the department shall not use the member's final quarter of wages if using that quarter would reduce the member's three-year average covered wage. If the three-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the three-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service. Notwithstanding any other provision of this paragraph to the contrary, a member's wages for the third year as computed by this paragraph shall not exceed, by more than three percent, the member's highest actual calendar year of covered wages for a member whose first month of entitlement is January 1999 or later.

Sec. 11. Section 97B.1A, subsection 24, paragraph c, Code Supplement 2001, is amended to read as follows:

c. "Three-year average covered wage" means, for a member who retires on or after July 1, 2003 ~~2005~~, the greater of the member's covered wages averaged for a member's highest twelve consecutive quarters of service or the member's covered wages averaged for a member's highest three calendar years of service. The department shall adopt rules to implement this paragraph in accordance with the requirements of this chapter and the federal Internal Revenue Code.

Sec. 12. Section 97B.15, Code 2001, is amended to read as follows:

97B.15 RULES, POLICIES, AND PROCEDURES.

The department may adopt rules under chapter 17A and establish procedures, not inconsistent with this chapter, which are necessary or appropriate to implement this chapter and shall adopt reasonable and proper rules to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the proofs and evidence in order to establish the right to benefits under this chapter. The department may adopt rules, and take action based on the rules, to conform the requirements for receipt of retirement benefits under this chapter to the mandates of applicable federal and state statutes and regulations.

Prior to the adoption of rules, the department may establish interim written policies and procedures, and take action based on the policies and procedures, to conform the requirements for receipt of retirement benefits under this chapter to the applicable requirements of federal and state law.

Sec. 13. Section 97B.17, Code Supplement 2001, is amended to read as follows:

97B.17 RECORDS MAINTAINED.

1. The department shall establish and maintain records of each member, including but not limited to, the amount of wages of each member, the contribution of each member with interest, and interest dividends credited. The records may be maintained in paper, magnetic, or electronic form, including optical disk storage. These records are the basis for the compilation of the retirement benefits provided under this chapter.

2. The following records maintained under this chapter are not public records for the purposes of chapter 22:

1. a. Records containing social security numbers.
2. b. Records specifying amounts accumulated in members' accounts and supplemental accounts.
3. c. Records containing names or addresses of members or their beneficiaries.
4. d. Records containing amounts of payments to members or their beneficiaries.
5. e. Records containing financial or commercial information that relates to the investment of system funds if the disclosure of such information could result in a loss to the system or to the provider of the information.

3. Summary information concerning the demographics of the members and general statistical information concerning the system is subject to chapter 22, as well as aggregate information by category.

However, the department's records are evidence for the purpose of proceedings before the department or any court of the amounts of wages and the periods in which they were paid, and the absence of an entry as to a member's wages in the records for any period is evidence that wages were not paid that member in the period.

~~4.~~ Notwithstanding any provisions of chapter 22 to the contrary, the department's records may be released to any political subdivision, instrumentality, or other agency of the state solely for use in a civil or criminal law enforcement activity pursuant to the requirements of this ~~paragraph~~ subsection. To obtain the records, the political subdivision, instrumentality, or agency shall, in writing, certify that the activity is authorized by law, provide a written description of the information desired, and describe the law enforcement activity for which the information is sought. The department shall not be civilly or criminally liable for the release or rerelease of records in accordance with this ~~paragraph~~ subsection.

5. Confidential records of the division maintained for the operation of the system may be released to the directors, agents, and employees of the legislative fiscal bureau, the department of revenue and finance, the department of management, the department of personnel, or an employer of employees covered by the system pursuant to rules adopted by the division for the performance of the requestor's duties. To obtain a record under this subsection, the person requesting the records shall provide a written description of the information requested and the reason for requesting the records to the division. A person receiving a record pursuant to this subsection shall maintain the confidentiality of any information otherwise required to be kept confidential and shall be subject to the same penalties as the custodian of the records for the public dissemination of such information.

Sec. 14. Section 97B.18, Code 2001, is amended to read as follows:

97B.18 STATEMENT OF ACCUMULATED CREDIT.

After the expiration of each calendar year and prior to July 1 of the succeeding year, the department shall furnish each member with a statement of the member's accumulated contributions and benefit credits accrued under this chapter up to the end of that calendar year and additional information the department deems useful to a member. The department may furnish an estimate of the credits as of the projected normal retirement date of the member under section 97B.45. ~~The department shall mail the statement to each employer not later than June 30 of the succeeding calendar year. The employer shall distribute the statements to its employees, and the records of the department as shown by the statement as to the wages of each individual member for a year and the periods of payment shall be conclusive for the purpose of this chapter, except as otherwise provided in this chapter.~~

~~Effective for the calendar year beginning January 1, 1994, the department may transmit the statements directly to the members in lieu of mailing them to the employers.~~

Sec. 15. NEW SECTION. 97B.42C RETIREMENT SYSTEM MERGER — MUNICIPAL UTILITY RETIREMENT SYSTEM.

A municipal water utility or waterworks that has established a pension and annuity retirement system for its employees pursuant to chapter 412 may adopt a resolution to authorize the merger of its pension and annuity retirement system with and into the Iowa public employees' retirement system. The system is authorized, but is not required, to accept such a proposal. The governing body of the municipal water utility or waterworks and the Iowa public employees' retirement system shall, acting in their fiduciary capacities, mutually determine the terms and conditions of such a merger, including any additional funds necessary to fund the service credits being transferred to the Iowa public employees' retirement system, and either party may decline the merger if they cannot agree on such terms and conditions. The system shall adopt such rules as it deems necessary and prudent to effectuate mergers as provided by this section.

Sec. 16. Section 97B.44, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, the system may accept a married mem-

ber's designation or change in designation under this section without the written consent of the member's spouse if the member submits a notarized statement indicating that the member has been unable to locate the member's spouse to obtain the written consent of the spouse after reasonable diligent efforts. The member's designation or change in designation shall become effective upon filing the necessary forms, including the notarized statement, with the division. The division shall not be liable to the member, the member's spouse, or to any other person affected by the member's designation or change of designation, based upon a designation or change of designation accomplished without the written consent of the member's spouse.

Sec. 17. Section 97B.45, Code 2001, is amended to read as follows:

97B.45 NORMAL RETIREMENT DATE.

A member's normal retirement date is any of the following, whichever is applicable to the member:

1. The first of the month in which a member attains the age of sixty-five years if the member has not completed twenty years of membership service.
2. The first of the month in which the member attains the age of sixty-two years if the member has completed twenty years of membership service.
3. The first of any month in which the member has completed twenty years of membership service if the member has attained the age of sixty-two years but is not yet sixty-five years of age.
4. The first of any month in which the member is at least fifty-five years of age and for which the sum of the number of years of membership service and prior service and the member's age in years as of the member's last birthday equals or exceeds eighty-eight.

~~A member may retire after the member's sixty-fifth birthday except as otherwise provided in section 97B.46.~~ A member retiring on or after the normal retirement date, as provided in section 97B.46, shall submit a written notice to the department setting forth the date the retirement is to become effective. The date shall be after the member's last day of service and not before the first day of the sixth calendar month preceding the month in which the notice is filed.

Sec. 18. Section 97B.48, subsection 3, Code 2001, is amended to read as follows:

3. ~~As of~~ On or before the first of the month in which a member attains the age of seventy years, the ~~department~~ division shall provide written notification to the ~~each~~ each member ~~for whom the division has an address~~ that the member may commence receiving a retirement allowance regardless of the member's employment status. Prior to receiving a retirement allowance pursuant to this subsection, a member shall acknowledge in writing that the member was informed by the department of the consequences of electing to receive a retirement allowance pursuant to this subsection and that receipt of a retirement allowance under this subsection is optional. Upon termination from employment of a member receiving a retirement allowance pursuant to this subsection, the member is entitled to have the member's monthly retirement allowance recalculated using the applicable formula for determining a retirement allowance pursuant to sections 97B.49A through 97B.49G, as applicable, in place at the time of the member's first month of entitlement.

Sec. 19. Section 97B.48A, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If a member who has not reached the member's sixty-fifth birthday and who has a bona fide retirement under this chapter is in regular full-time employment during a calendar year, the member's retirement allowance shall be reduced by fifty cents for each dollar the member earns over the limit provided in this subsection. However, employment is not full-time employment until the member receives remuneration in an amount in excess of ~~fourteen~~ thirty thousand dollars for a calendar year, or an amount equal to the amount of remuneration permitted for a calendar year for persons under sixty-five years of age before a reduction in federal social security retirement benefits is required, whichever is higher. Effective the first of the month

in which a member attains the age of sixty-five years, a retired member may receive a retirement allowance without a reduction after return to covered employment regardless of the amount of remuneration received.

Sec. 20. Section 97B.49B, subsection 1, paragraph e, subparagraph (1), Code 2001, is amended to read as follows:

(1) A conservation peace officer employed under section 456A.13 or as designated by a county conservation board pursuant to section 350.5.

Sec. 21. Section 97B.49B, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 4. Notwithstanding any provision of this chapter to the contrary, the three-year average covered wage for a member retiring under this section whose years of eligible service equals or exceeds twenty-two years of eligible service for that member shall be determined by calculating the member's eligible combined wage for each year of eligible service. For purposes of this subsection, "eligible combined wage" means the wages earned by the member for each quarter year period from eligible service and from covered employment that is not eligible service if at least seventy-five percent of the wages earned was from eligible service.

Sec. 22. Section 97B.49C, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 4. Notwithstanding any provision of this chapter to the contrary, the three-year average covered wage for a member retiring under this section whose years of eligible service equals or exceeds twenty-two years of eligible service for that member shall be determined by calculating the member's eligible combined wage for each quarter year of eligible service. For purposes of this subsection, "eligible combined wage" means the wages earned by the member for each quarter year period from eligible service and from covered employment that is not eligible service if at least seventy-five percent of the wages earned was from eligible service.

Sec. 23. Section 97B.49F, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. ~~Commencing January 1, 1999, all members who retired on or after July 1, 1990, and qualified recipients who have been retired received a monthly allowance for at least one year as of the date the dividend is payable, or a beneficiary or contingent annuitant of such a member who receives a monthly benefit, shall be eligible to receive a favorable experience dividend, payable on the last business day in January of each year pursuant to the requirements of this subsection. If the member, beneficiary, or contingent annuitant qualified recipient eligible to receive a favorable experience dividend dies before January 1 of a year, a favorable experience dividend shall not be payable in January of that year in the name of the member, beneficiary, or contingent annuitant qualified recipient. However, if the member, beneficiary, or contingent annuitant qualified recipient dies on or after January 1 but before the dividend is paid in that month, the full amount of the dividend payable in that month shall be paid in the name of the applicable member, beneficiary, or contingent annuitant qualified recipient, upon notification of death. For purposes of this paragraph, "qualified recipient" includes all members who retired on or after July 1, 1990, or a beneficiary or contingent annuitant of such a member who receives a monthly benefit, and a beneficiary of an active member who elects a monthly allowance under section 97B.52, subsection 1, paragraph "c".~~

Sec. 24. Section 97B.50A, subsection 2, paragraph d, Code 2001, is amended to read as follows:

d. Upon retirement for an in-service disability as provided by this subsection, a member shall have the option to receive the ~~greater of~~ a monthly in-service disability retirement allowance calculated under this subsection or a monthly retirement allowance as provided in section 97B.49A, 97B.49B, 97B.49C, 97B.49D, or 97B.49G, as applicable, ~~that the member would~~

receive if the member had attained fifty-five years of age. The monthly in-service disability allowance calculated under this subsection shall consist of an allowance equal to one-twelfth of sixty percent of the member's three-year average covered wage or its actuarial equivalent as provided under section 97B.51.

Sec. 25. Section 97B.51, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Each member has the right prior to the member's retirement date to elect to have the member's retirement allowance payable under one of the options set forth in this section. The amount of the optional retirement allowance selected in paragraph "a", "c", "d", or "e", or "f" shall be the actuarial equivalent of the amount of the retirement allowance otherwise payable to the member as determined by the system in consultation with the system's actuary. The member shall make an election by written request to the department and the election is subject to the approval of the department. If the member is married, election of an option under this section requires the written acknowledgment of the member's spouse. However, the system may accept a married member's election of a benefit option under this section without the written acknowledgment of the member's spouse if the member submits a notarized statement indicating that the member has been unable to locate the member's spouse to obtain the written acknowledgment of the spouse after reasonable diligent efforts. The member's election of a benefit option shall become effective upon filing the necessary forms, including the notarized statement, with the division. The division shall not be liable to the member, the member's spouse, or to any other person affected by the member's election of a benefit option, based upon an election of benefit option accomplished without the written acknowledgment of the member's spouse. The member may, if eligible, select one of the following options:

Sec. 26. Section 97B.51, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. At retirement, a member may designate that upon the member's death, a specified amount of money shall be paid to a named beneficiary, and the member's monthly retirement allowance shall be reduced by an actuarially determined amount to provide for the lump sum payment. The amount designated by the member must be in thousand dollar increments and shall be limited to the amount of the member's accumulated contributions. The amount designated shall not lower the monthly retirement allowance of the member by more than one-half the amount payable as provided in paragraph "b". A member may designate a different beneficiary at any time, except as limited by an order that has been accepted by the department as complying with the requirements of section 97B.39. The election of a death benefit amount under this paragraph shall be irrevocable upon payment of the first monthly retirement allowance.

Sec. 27. Section 97B.51, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A member retiring under section 97B.49B or 97B.49C may select an allowance upon retirement as provided under paragraph "a", "b", "c", or "e", or paragraph "d", subparagraph (1), and may elect to have the monthly allowance otherwise payable to the member pursuant to the selected paragraph or subparagraph recalculated as provided in this paragraph. A member electing payment of a monthly allowance under this paragraph shall have the member's monthly allowance increased, as determined by the system's actuary, by an amount equal to the monthly federal social security benefit that would be payable to the member on the date the member would be first eligible to receive a reduced social security pension benefit based upon the member's account. Upon reaching the date the member would be first eligible to receive a reduced social security pension benefit, the member's monthly retirement allowance shall be permanently reduced, as determined by the system's actuary. A member electing payment of an allowance under this paragraph shall provide the system with a copy of the estimate provided by the federal social security administration of the member's monthly

federal social security benefit that would be payable on the date the member would be first eligible to receive a reduced social security pension benefit at least sixty days prior to the member's first month of entitlement.

Sec. 28. Section 97B.52, subsection 4, paragraph b, Code 2001, is amended to read as follows:

b. If a death benefit is due and payable on behalf of a member who dies prior to the member's first month of entitlement, interest shall continue to accumulate through the quarter preceding the quarter in which payment is made to the designated beneficiary, heirs at law, or the estate unless the payment of the death benefit is delayed because of a dispute between alleged heirs, in which case the benefit due and payable shall be placed in a noninterest bearing escrow account until the beneficiary is determined in accordance with this section.

Sec. 29. Section 97B.53, subsection 4, Code 2001, is amended to read as follows:

4. A member has not terminated employment for purposes of this section if the member accepts other covered employment within ~~four months~~ thirty days after receiving the last payment of wages for covered employment, or if the member begins covered employment prior to filing a request for a refund with the ~~department~~ division.

Sec. 30. Section 97B.53B, Code 2001, is amended to read as follows:

97B.53B ROLLOVERS OF MEMBERS' ACCOUNTS.

1. As used in this section, unless the context otherwise requires, and to the extent permitted by the internal revenue service:

a. "Direct rollover" means a payment by the system to the eligible retirement plan specified by the member or the member's surviving spouse.

b. "Eligible retirement plan" means either of the following that accepts an eligible rollover distribution from a member or a member's surviving spouse:

(1) An individual retirement account in accordance with section 408(a) of the federal Internal Revenue Code.

(2) An individual retirement annuity in accordance with section 408(b) of the federal Internal Revenue Code.

In addition, an "eligible retirement plan" includes an annuity plan in accordance with section 403(a) of the federal Internal Revenue Code, or a qualified trust in accordance with section 401(a) of the federal Internal Revenue Code, that accepts an eligible rollover distribution from a member. Effective January 1, 2002, the term "eligible retirement plan" also includes an annuity contract described in section 403(b) of the federal Internal Revenue Code, and an eligible plan under 457(b) of the federal Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state that chooses to separately account for amounts transferred into such eligible retirement plan from the system.

c. (1) "Eligible rollover distribution" ~~means all~~ includes any of the following:

(a) ~~All~~ or any portion of a member's account and supplemental account, ~~except that an~~

(b) Effective January 1, 2002, after-tax employee contributions, if the plan to which such amounts are to be transferred is an individual retirement account described in federal Internal Revenue Code section 408(a) or 408(b), or is a qualified defined contribution plan described in federal Internal Revenue Code section 401(a) or 403(a), and such plan agrees to separately account for the after-tax amount so transferred.

(c) A distribution made on behalf of a surviving spouse and to an alternate payee, who is a spouse or former spouse, under a qualified domestic relations order.

(2) ~~An~~ eligible rollover distribution does not include any of the following:

(1) ~~(a)~~ A distribution that is one of a series of substantially equal periodic payments, which occur annually or more frequently, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or made for a specified period of ten years or more.

~~(2) (b)~~ A distribution to the extent that the distribution is required pursuant to section 401(a)(9) of the federal Internal Revenue Code.

~~(3) (c)~~ The portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

~~(4) Annual distributions of less than two hundred dollars of taxable income.~~

2. Effective January 1, 1993, a member or a member's surviving spouse may elect, at the time and in the manner prescribed in rules adopted by the department, to have the department pay all or a portion of an eligible rollover distribution directly to an eligible retirement plan, specified by the member or the member's surviving spouse, in a direct rollover. ~~If a member or a member's surviving spouse elects a partial direct rollover, the amount of funds elected for the partial direct rollover must equal or exceed five hundred dollars.~~

Sec. 31. Section 97B.80A, subsections 1 and 3, Code 2001, are amended to read as follows:

1. A vested or retired member who has five or more full calendar years of covered wages and who at any time was employed by a covered employer under this chapter but at the time of the employment was not covered by this chapter and did not opt out of coverage under this chapter in eligible public employment, upon submitting verification of the eligible public employment and the dates of the eligible public employment, may make contributions to the system for up to the lesser of twenty quarters of service credit for such eligible public employment or the entire period of the eligible public employment, in increments of one or more calendar quarters, and receive credit for membership service and prior service for the period of time for which the contributions are made.

3. The verification of the eligible public employment and the dates of such eligible public employment shall be made by the department prior to receiving contributions from the member.

Sec. 32. Section 97B.80A, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 7. For purposes of this section, "eligible public employment" means employment of a person who at the time of the employment was not covered by this chapter and the employment meets any of the following conditions:

a. Employment by a covered employer under this chapter of a person who did not opt out of coverage under this chapter.

b. Employment of a person as an adjunct instructor as defined in section 97B.1A, subsection 8.

Sec. 33. NEW SECTION. 97B.80C PURCHASES OF PERMISSIVE SERVICE CREDIT.

1. DEFINITIONS. For purposes of this section:

a. "Nonqualified service" means service that is not qualified service.

b. "Permissive service credit" means credit that will be recognized by the system for purposes of calculating a member's benefit, for which the member did not previously receive service credit in the system, and for which the member voluntarily contributes to the system the amount required by the system, not in excess of the amount necessary to fund the benefit attributable to such service.

c. (1) "Qualified service" means any of the following:

(a) Service with the United States government or any state or local government, including any agency or instrumentality thereof, regardless of whether that government, agency, or instrumentality was a covered employer at the time of the service.

(b) Service with an association representing employees of the United States government or any state or local government, including any agency or instrumentality thereof, regardless of whether that government, agency, or instrumentality was a covered employer at the time of the service.

(c) Service with an educational organization which normally maintains a regular faculty and curriculum, normally has a regularly enrolled body of pupils or students in attendance at

the place where its educational activities are regularly carried on, and is a public, private, or sectarian school which provides elementary education or secondary education through grade twelve.

(d) Military service other than military service required to be recognized under Internal Revenue Code section 414(u) or under the federal Uniformed Services Employment and Re-employment Rights Act.

(2) "Qualified service" does not include service as described in subparagraph (1) if the receipt of credit for such service would result in the member receiving a retirement benefit under more than one retirement plan for the same period of service.

2. a. A vested or retired member may make contributions to the system to purchase up to the maximum amount of permissive service credit for qualified service as determined by the division, pursuant to Internal Revenue Code section 415(n) and the requirements of this section.

b. A vested or retired member of the system who has five or more full calendar years of covered wages may make contributions to the system to purchase up to five years of permissive service credit for nonqualified service as determined by the division, pursuant to Internal Revenue Code section 415(n) and the requirements of this section.

3. A member making contributions for a purchase of permissive service credit under this section shall make contributions in an amount equal to the actuarial cost of the permissive service credit purchase. For purposes of this subsection, the actuarial cost of the service purchase is an amount determined by the division in accordance with actuarial tables, as reported to the division by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of permissive service credit.

4. The division shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 34. Section 97B.82, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

97B.82 PURCHASE OF SERVICE CREDIT — DIRECT ROLLOVERS — DIRECT TRANSFERS.

1. Effective July 1, 2002, a member may, to the extent permitted by the internal revenue service, purchase any service credit permitted under this chapter by means of a direct rollover or a direct transfer as provided in this section pursuant to rules adopted by the division and consistent with applicable requirements of the federal Internal Revenue Code. Purchases of service credit by means of a direct rollover or direct transfer under this section shall not exceed the amounts permitted under section 415(n) of the federal Internal Revenue Code and section 97B.80C as determined by the division.

2. a. A member may purchase service credit as authorized by this section through a direct rollover to the system of an eligible rollover distribution from an eligible retirement plan as permitted by the internal revenue service under the federal Internal Revenue Code. The amount of the direct rollover into the system cannot exceed the cost of the service purchase by a member under this chapter. Once a direct rollover is made, the member must forfeit the applicable service credit from the eligible retirement plan from which the eligible rollover distribution is received.

b. (1) For purposes of this subsection, "an eligible rollover distribution from an eligible retirement plan" includes distributions from any of the following:

(a) Qualified plans described in federal Internal Revenue Code sections 401(a) and 403(a).

(b) Annuity contracts described in federal Internal Revenue Code section 403(b).

(c) Eligible plans described under federal Internal Revenue Code section 457(b) which are maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(d) Individual retirement accounts described in federal Internal Revenue Code section 408(a) or 408(b).

(2) An eligible rollover distribution from an eligible retirement plan does not include any of the following:

(a) A distribution that is one of a series of substantially equal periodic payments, which occur annually or more frequently, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or made for a specified period of ten years or more.

(b) A distribution to the extent that the distribution is required pursuant to section 401(a)(9) of the federal Internal Revenue Code.

(c) The portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(d) Any amounts that are not permitted to be treated as eligible rollover distributions by the internal revenue service under the federal Internal Revenue Code.

3. A member may purchase any service credit as authorized by this section, to the extent permitted by the internal revenue service, by means of a direct transfer, excluding any after-tax contributions, from an annuity contract qualified under federal Internal Revenue Code section 403(b), or an eligible plan described in federal Internal Revenue Code section 457(b), maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. A direct transfer is a trustee-to-trustee transfer to the system of contributions made to annuity contracts qualified under federal Internal Revenue Code section 403(b) and eligible governmental plans qualified under federal Internal Revenue Code section 457(b) for purposes of purchasing service credit in the system.

Sec. 35. NEW SECTION. 97C.21 VOLUNTARY COVERAGE OF ELECTED OFFICIALS.

Notwithstanding any provision of this chapter to the contrary, an employer of elected officials otherwise excluded from the definition of employee as provided in section 97C.2, may, but is not required to, choose to provide benefits to those elected officials as employees as provided by this chapter. This choice shall be reflected in the federal-state agreement described in section 97C.3. An employer who is providing benefits to elected officials otherwise excluded from the definition of employee prior to July 1, 2002, shall not be deemed to be in an erroneous reporting situation, and corrections for prior federal social security withholdings shall not be required. The implementation of this section shall be subject to the approval of the federal social security administration.

Sec. 36. IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM — TEMPORARY LAY-OFFS — AVERAGE COVERED WAGE RECALCULATION.

1. Notwithstanding any provision of chapter 97B to the contrary, a member of the Iowa public employees' retirement system who has an employer-mandated reduction in hours but remains on the employer's payroll, and who would receive a reduction in the member's three-year average covered wage as a result of the reduction in hours, may have the member's retirement allowance calculated based on the three-year average covered wage the member would have received, based on reasonable assumptions, if the member had not been subject to the employer-mandated reduction in hours, upon payment by the member of the applicable contribution amount. For purposes of this section, the applicable contribution amount is an amount equal to the employee and employer contributions that would have been paid to the system based on the wages that the member would have received but for the employer-mandated reduction in hours and would have been included in the member's three-year average covered wage.

2. The payment of the applicable contribution amount under this section shall be treated as pick-up contributions in addition to amounts picked up under section 97B.11A. The member must notify the Iowa public employees' retirement system and the member's employer prior to the member terminating employment covered under the system so that the appropriate calculations can be made and the applicable contribution amount for the member can be deducted from the member's wages. The Iowa public employees' retirement system shall have no liability for a member's failure to notify the system and the member's employer in time to make such calculations and deduct the applicable contribution amount from the member's remaining wage payments.

3. This section shall apply to employer-mandated reductions in hours during the period of time beginning on or after January 1, 2002, and ending no later than June 30, 2003. The system is authorized to adopt such rules, including emergency rules, as it deems necessary or prudent to implement this section.

Sec. 37. RETROACTIVE APPLICABILITY. Section 97B.52, subsection 2, Code 2001, establishing a line of duty death benefit for a member in special service, is retroactively applicable to January 1, 1992, and is applicable to covered deaths occurring on and after that date.

Sec. 38. EFFECTIVE DATE — RETROACTIVE APPLICABILITY.

1. The section of this Act amending section 97B.1A, subsection 8, paragraph “b”, subparagraph (2), being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 1995, and is applicable on and after that date.

2. The section of this Act amending section 97B.53B, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to January 1, 2002, and is applicable on and after that date.

Sec. 39. IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM — STUDY ON DEFERRED RETIREMENT OPTION PROGRAM — REPORT. The Iowa public employees’ retirement system (IPERS) shall conduct a study to consider how to implement a deferred retirement option program (DROP) which is cost-neutral to the system, pursuant to its findings as a consequence of the pension portability study mandated by the 2000 Session of the General Assembly. In pursuing this proposal, IPERS shall conduct a statistically valid, professional survey of its members who would be eligible to participate in a DROP plan, if offered, in order to determine the level of their interest and the conditions under which they would, or would not, participate. In addition, the system actuary shall perform a long-range estimate of system assets and liabilities, factoring in estimated changes in its membership demographics. On or before October 1, 2003, the IPERS shall file a report with the legislative service bureau, for distribution to the public retirement systems committee established in section 97D.4, which contains its findings and recommendations. The report shall also contain any applicable actuarial information concerning the costs of any proposal or proposals.

Sec. 40. IOWA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM — STUDY ON A NEW OPTION FOR TERMINATED VESTED MEMBERS — REPORT. The Iowa public employees’ retirement system (IPERS) shall conduct a study to consider how to implement a new option for terminating, vested employees in which their employer and employee contributions, in accord with the existing IPERS’ refund formula, would be “rolled over” into an individual account which would then mirror the experience of the IPERS’ trust fund, minus reasonable administrative expenses. The proposal to be studied is in accord with recommendations of the pension portability study mandated by the 2000 Session of the General Assembly. In pursuing this proposal, IPERS shall work closely with the system actuary in order to develop a proposal which is cost-neutral to the retirement system. On or before October 1, 2003, the IPERS shall file a report with the legislative service bureau, for distribution to the public retirement systems committee established in section 97D.4, which contains its findings and recommendations. The report shall also contain any applicable actuarial information concerning the costs of any proposal or proposals.

DIVISION III STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM

Sec. 41. Section 411.1, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 11A. “Member in good standing” means a member in service who is not subject to removal by the employing city of the member pursuant to section 400.18 or 400.19, or other comparable process, and who is not the subject of an investigation that could lead to such removal.

Sec. 42. Section 411.6, subsection 3, Code 2001, is amended to read as follows:

3. ORDINARY DISABILITY RETIREMENT BENEFIT. Upon application to the system, of a member in service good standing or of the chief of the police or fire departments, respectively, any member in good standing shall be retired by the system, not less than thirty and not more than ninety days next following the date of filing the application, on an ordinary disability retirement allowance, if the medical board after a medical examination of the member certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits. The member-in-good-standing requirement of this subsection may be waived for good cause as determined by the board. The burden of establishing good cause is on the member.

Sec. 43. Section 411.6, subsection 5, paragraph a, Code 2001, is amended to read as follows:

a. Upon application to the system, of a member in service good standing or of the chief of the police or fire departments, respectively, any member in good standing who has become totally and permanently incapacitated for duty as the natural and proximate result of an injury or disease incurred in or aggravated by the actual performance of duty at some definite time and place, or while acting pursuant to order, outside of the city by which the member is regularly employed, shall be retired by the system, if the medical board certifies that the member is mentally or physically incapacitated for further performance of duty, that the incapacity is likely to be permanent, and that the member should be retired. However, if a person's membership in the system first commenced on or after July 1, 1992, the member shall not be eligible for benefits with respect to a disability which would not exist, but for a medical condition that was known to exist on the date that membership commenced. A member who is denied a benefit under this subsection, by reason of a finding by the medical board that the member is not mentally or physically incapacitated for the further performance of duty, shall be entitled to be restored to active service in the same position held immediately prior to the application for disability benefits.

Sec. 44. Section 411.6, subsection 5, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The requirement that a member be in good standing to apply for and receive a benefit under this subsection may be waived for good cause as determined by the board. The burden of establishing good cause is on the member.

Sec. 45. Section 411.6, subsection 7, paragraph b, Code 2001, is amended to read as follows:

b. Should a disability beneficiary under age fifty-five be restored to active service at a compensation not less than the disability beneficiary's average final compensation, the disability beneficiary's retirement allowance shall cease, the disability beneficiary shall again become a member and shall contribute thereafter at the ~~same rate paid prior to disability~~ established in section 411.8, and former service on the basis of which the disability beneficiary's service was computed at the time of retirement shall be restored to full force and effect and upon subsequent retirement the disability beneficiary shall be credited with all service as a member and also with the period of disability retirement.

Sec. 46. Section 411.6, subsection 8, paragraph b, Code 2001, is amended to read as follows:

b. In lieu of the payment specified in paragraph "a", a beneficiary meeting the qualifications

of paragraph "c" may elect to receive a monthly pension equal to one-twelfth of forty percent of the average final compensation of the member, but not less than twenty percent of the average monthly earnable compensation paid to an active member ~~holding the highest grade in the rank of fire fighter, for a beneficiary of a deceased member of a fire department, or the highest grade in the rank of police patrol officer, for a beneficiary of a deceased member of a police department, if the member was in service at the time of death of the system, as reported by the actuary.~~ For a member not in service at the time of death, the pension shall be reduced as provided in subsection 1, paragraph "b".

For a member not in service at the time of death, the pension shall be paid commencing when the member would have attained the age of fifty-five except that if there is a child of the member, the pension shall be paid commencing with the member's death until the child of the member no longer meets the definition of child as provided in section 411.1. The pension shall resume when the member would have attained the age of fifty-five.

For a member in service at the time of death, the pension shall be paid commencing with the member's death. In addition to the pension, there shall also be paid for each child of a member, a monthly pension equal to six percent of the average monthly earnable compensation paid to an active member ~~holding the highest grade in the rank of fire fighter, for a child of a deceased member of a fire department, or the highest grade in the rank of police patrol officer, for a child of a deceased member of a police department of the system, as reported by the actuary.~~

Notwithstanding section 411.6, subsection 8, Code 1985, effective July 1, 1990, for a member's surviving spouse who, prior to July 1, 1986, elected to receive pension benefits under this paragraph, the monthly pension benefit shall be equal to the higher of one-twelfth of forty percent of the average final compensation of the member, or the amount the surviving spouse was receiving on July 1, 1990.

Sec. 47. Section 411.6, subsection 9, paragraph b, Code 2001, is amended to read as follows:

b. ~~(1) An~~ If the member's designated beneficiary is the member's spouse, child or parent, ~~an~~ accidental death benefit pension equal to one-half of the average final compensation of the member shall be paid as follows:

(a) If the member's designated beneficiary is the member's spouse, then to the member's spouse.

(b) If the member's designated beneficiary is the member's child or children, then to the child or children in equal shares. The pension to each child shall terminate when the child no longer meets the definition of child in section 411.1.

(c) If the member's designated beneficiary is the member's dependent father or mother, or both, then to the father or mother, or both, in equal shares, to continue until remarriage or death.

(2) If the member failed to designate a beneficiary, or if the beneficiary designated by the member predeceases the member, then an accidental death benefit pension equal to one-half of the average final compensation of the member shall be paid as follows:

~~(1)~~ (a) To the member's spouse.

~~(2)~~ (b) If there is no spouse, or if the spouse dies and there is a child of the member, then to the member's child or children in equal shares. The pension to each child shall terminate when the child no longer meets the definition of child in section 411.1.

~~(3)~~ (c) If there is no surviving spouse or child, then to the member's dependent father or mother, or both, ~~as the system determines~~ in equal shares, to continue until remarriage or death.

Sec. 48. Section 411.6, subsection 9, paragraph c, Code 2001, is amended to read as follows:

c. In addition to the accidental death benefit pension provided in paragraph "b", there shall also be paid for each child of a member a monthly pension equal to six percent of the average monthly earnable compensation paid to an active member ~~holding the highest grade in the~~

~~rank of fire fighter, for a child of a deceased member of a fire department, or holding the highest grade in the rank of police patrol officer, for a child of a deceased member of a police department of the system, as reported by the actuary.~~

Sec. 49. Section 411.6, subsection 11, paragraph a, Code 2001, is amended to read as follows:

a. To the spouse, equal to one-half the amount received by the deceased beneficiary, but in no instance less than twenty percent of the average monthly earnable compensation paid to an active member holding the highest grade in the rank of fire fighter, for a beneficiary of a deceased member of the fire department, or the highest grade in the rank of police patrol officer, for a beneficiary of a deceased member of a police department of the system, as determined by the actuary, and in addition a monthly pension equal to the monthly pension payable under subsection 9 of this section for each child; or

Sec. 50. Section 411.6, subsection 12, paragraph a, Code 2001, is amended to read as follows:

a. On each July 1, the monthly pensions authorized in this section payable to retired members retired prior to that date and to beneficiaries entitled to a monthly pension prior to that date shall be adjusted as provided in this subsection. An amount equal to the sum of one and one-half percent of the monthly pension of each retired member and beneficiary and the applicable incremental amount shall be added to the monthly pension of each retired member and beneficiary. The board of trustees shall may report to the general assembly every six years, by September 15 of that year, beginning with September 15, 2001, at the board's discretion, on whether the provisions of this subsection continue to provide an equitable method for the annual readjustment of pensions payable under this chapter.

Sec. 51. Section 411.6, subsection 13, Code 2001, is amended to read as follows:

13. a. REMARRIAGE OF SURVIVING SPOUSE. Effective July 1, 1990, for a member who died prior to July 1, 1988, if the member's surviving spouse remarried prior to July 1, 1988, the remarriage does not make the spouse ineligible under subsection 8, paragraph "c", subparagraphs (1) and (2), to receive benefits under subsections 8, 9, 11, and 12.

b. RECOMPUTATION OF BENEFIT — SURVIVING SPOUSE. A benefit payable under this chapter to a surviving spouse and to any surviving spouse who receives a division of the surviving spouse benefit pursuant to a marriage decree or marital property order under section 411.13 shall not be recomputed upon the death of any surviving spouse.

Sec. 52. Section 411.31, subsection 2, Code 2001, is amended to read as follows:

2. Commencing July 1, 1996, a vested member of an eligible retirement system who terminates employment covered by one eligible retirement system and, within ~~sixty days~~ one year, commences employment covered by the other eligible retirement system may elect to transfer the average accrued benefit earned from the former system to the current system. The member shall file an application with the current system for transfer of the average accrued benefit within ninety days of the commencement of employment with the current system.

Sec. 53. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. The section of this Act amending section 411.31, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 1996.

DIVISION IV JUDICIAL RETIREMENT SYSTEM

Sec. 54. Section 602.9107, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. The annual annuity of a judge under this system is an amount equal to three percent of the judge's average annual basic salary for the judge's last highest three years as a judge of

one or more of the courts included in this article, multiplied by the judge's years of service as a judge of one or more of the courts for which contributions were made to the system. However, an annual annuity shall not exceed an amount equal to a specified percentage of the highest basic annual salary which the judge is receiving at or had received as of the time the judge becomes became separated from service. Forfeitures shall not be used to increase the annuities a judge or survivor would otherwise receive under the system.

Sec. 55. NEW SECTION. 602.9107C IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM — SERVICE CREDIT.

1. A judge under this system who has at least six years of service as a judge of any of the courts included in this article and who was a member of the Iowa public employees' retirement system as provided in chapter 97B, but who was not retired under that system, upon submitting verification of membership and service in the Iowa public employees' retirement system to the court administrator, including proof that the judge has no further claim upon a retirement benefit from that public system, may make contributions as provided by this section to the system either for the entire period of service in the other public system, or for partial service in the other public system in increments of one or more calendar quarters, and receive credit for that service under the system.

2. The contributions required to be made for purposes of this section shall be in an amount equal to the actuarial cost of the service purchase. For purposes of this subsection, the actuarial cost of the service purchase is an amount determined by the court administrator in accordance with actuarial tables, as reported to the court administrator by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement annuity resulting from the purchase of additional service.

3. A judge eligible for an increased retirement annuity because of the payment of contributions under this section is entitled to receipt of retroactive adjustment payments for no more than six months immediately preceding the month in which the judge pays contributions under this section.

4. The court administrator shall ensure that the judge, in exercising an option provided in this section, does not exceed the amount of annual additions to a judge's account permitted pursuant to section 415 of the Internal Revenue Code.

Sec. 56. Section 602.9202, subsection 1, Code 2001, is amended to read as follows:

1. "Senior judge" means a supreme court judge, court of appeals judge, district court judge, ~~or district associate judge,~~ full-time associate juvenile judge, or full-time associate probate judge, who meets the requirements of section 602.9203 and who has not been retired or removed from the roster of senior judges under section 602.9207 or 602.9208.

Sec. 57. Section 602.9203, subsection 1, Code 2001, is amended to read as follows:

1. A supreme court judge, court of appeals judge, district judge, ~~or district associate judge,~~ full-time associate juvenile judge, or full-time associate probate judge, who qualifies under subsection 2 may become a senior judge by filing with the clerk of the supreme court a written election in the form specified by the court administrator. The election shall be filed within six months of the date of retirement.

Sec. 58. Section 602.9204, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. "Basic senior judge salary" means the highest basic annual salary which the judge is receiving at or had received as of the time the judge becomes became separated from full-time service, as would be used in computing an annuity pursuant to section 602.9107 without service as a senior judge, plus seventy-five percent of the escalator.

CHAPTER 1136**RESIDENTIAL REAL ESTATE INSTALLMENT CONTRACTS —
DISCLOSURE STATEMENTS***H.F. 2565*

AN ACT requiring contract disclosure statements for certain residential real estate installment contracts, providing for a penalty, and providing an applicability date.

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

Section 1. NEW SECTION. 558.70 CONTRACT DISCLOSURE STATEMENT REQUIRED FOR CERTAIN RESIDENTIAL REAL ESTATE INSTALLMENT SALES.

1. Prior to executing a residential real estate installment sales contract, the contract seller shall deliver a written contract disclosure statement to the contract purchaser which shall clearly set forth the following information:

a. If the real estate subject to the contract has been separately assessed for property tax purposes, the current assessed value of the real estate.

b. (1) A complete description of any property taxes due and payable on the real estate and a complete description of any special assessment on the real estate and the term of the assessment.

(2) Information on whether any property taxes or special assessments are delinquent and whether any tax sale certificates have been issued for delinquent property taxes or special assessments on the real estate.

c. A complete description of any mortgages or other liens encumbering or secured by the real estate, including the identity and address of the current owner of record with respect to each such mortgage or lien, as well as a description of the total outstanding balance and due date under any such mortgage or lien.

d. A complete amortization schedule for all payments to be made pursuant to the contract, which amortization schedule shall include information on the portion of each payment to be applied to principal and the portion to be applied to interest.

e. If the contract requires a balloon payment, a complete description of the balloon payment, including the date the payment is due, the amount of the balloon payment, and other terms related to the balloon payment. For purposes of this paragraph, a "balloon payment" is any scheduled payment that is more than twice as large as the average of earlier scheduled payments.

f. The annual rate of interest to be charged under the contract.

g. A statement that the purchaser has a right to seek independent legal counsel concerning the contract and any matters pertaining to the contract.

h. A statement that the purchaser has a right to receive a true and complete copy of the contract after it has been executed by all parties to the contract.

i. The mailing address of each party to the contract.

j. If the contract is subject to forfeiture, a statement that if the purchaser does not comply with the terms of the contract, the purchaser may lose all rights in the real estate and all sums paid under the contract.

2. The contract disclosure statement shall be dated and signed by each party to the contract, and the contract purchaser shall be provided a complete copy of the contract at the time the disclosure statement is delivered to the contract purchaser pursuant to subsection 1.

3. Within five days after a residential real estate installment sales contract has been executed by all parties to the contract, the contract seller shall mail a true and correct copy of the contract by regular first class mail to the last known address of each contract purchaser. However, this requirement is satisfied as to any purchaser who acknowledges in writing that the purchaser has received a true and correct copy of the fully executed contract.

4. This section applies to a contract seller who entered into four or more residential real es-

tate contracts in the three hundred sixty-five days previous to the contract seller signing the contract disclosure statement. For purposes of this subsection, two or more entities sharing a common owner or manager are considered a single contract seller. This section does not apply to an organization listed in section 535B.2, subsections 1 through 12.

5. A violation of this section affects title to property only as provided in section 558.71.

6. For purposes of this section, "residential real estate" means a residential dwelling containing no more than two single-family dwelling units, which is not located on a tract of land used for agricultural purposes as defined in section 535.13.

7. This section and any rules adopted to administer this section shall not limit or abridge any duty, requirement, obligation, or liability for disclosure created by any other provision of law, or under a contract between the parties.

Sec. 2. NEW SECTION. 558.71 CIVIL LIABILITIES.

1. A contract purchaser injured by a violation of section 558.70 may within one year of the execution of the contract bring an equitable action in the district court of record where the real estate is located to obtain relief as follows:

a. The court may rescind a contract that remains in existence at the time the action is commenced, and award restitution to the contract purchaser determined in accordance with the standards for damages specified in paragraph "b".

b. If the contract has been terminated by any means prior to commencement of the action, the contract purchaser may recover a money judgment against the original contract seller for a sum equal to all amounts the contract purchaser paid to the contract seller, plus the reasonable value of any improvements to the real estate made by the contract purchaser, plus any other proximately caused or incidental damages, less the fair rental value of the real estate for the period of time the contract purchaser was in possession of the real estate. For the purposes of this paragraph, the fair rental value of the real estate shall be based on the fair rental value of the real estate as of the date the real estate installment sales contract was executed by all parties to the contract.

2. A contract purchaser alleging a violation of section 558.70 bears the burden of establishing such violation by a preponderance of the evidence.

3. An order of rescision or a money judgment awarded shall not affect any rights or responsibilities arising from any conveyance or encumbrance made by either the contract purchaser or the contract seller prior to the filing of a lis pendens in the action in which such relief is sought, unless it is established by clear and convincing evidence that the recipient of such conveyance or encumbrance had prior knowledge that the contract was executed in violation of the requirements of section 558.70.

4. In an action in which a contract purchaser obtains relief under this section, the court shall also award to such contract purchaser reasonable attorney fees incurred in bringing the action.

Sec. 3. Section 558.46, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If a contract seller is subject to the requirements of section 558.70, the contract must be recorded within forty-five days rather than one hundred eighty days and the recording requirement is only satisfied by recording the real estate contract rather than a memorandum of the contract.

Sec. 4. Section 558A.4, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A transferor subject to the requirements of section 558.70 shall recommend in writing that the transferee obtain an independent home inspection report to provide full and complete information as required to be disclosed under this section and under rules adopted by the real estate commission pursuant to section 543B.9.

A transferor subject to section 558.70 shall provide the real estate disclosure statement required by this chapter at least seven days before the real estate installment sales contract is executed by all parties to the contract.

Sec. 5. Section 714.8, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 20. A contract seller who intentionally provides inaccurate information with regard to any matter required to be disclosed under section 558.70, subsection 1, or section 558A.4.

Sec. 6. **APPLICABILITY DATE.** This Act applies to residential real estate installment sales contracts entered into on or after the effective date of this Act by contract sellers who entered into four or more residential real estate installment sales contracts in the three hundred sixty-five days previous to a contract entered into on or after the effective date of this Act.

Approved April 26, 2002

CHAPTER 1137

ANIMAL FEEDING OPERATIONS AND ENVIRONMENTAL REGULATION

S.F. 2293

AN ACT relating to animal agriculture, providing for fees, providing for penalties, and including retroactive applicability and effective date provisions.

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

DIVISION I REGULATION OF ANIMAL FEEDING OPERATIONS

Section 1. Section 4.1, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 9A. "Internet" means the federated international system that is composed of allied electronic communication networks linked by telecommunication channels, that uses standardized protocols, and that facilitates electronic communication services, including but not limited to use of the world wide web; the transmission of electronic mail or messages; the transfer of files and data or other electronic information; and the transmission of voice, image, and video.

Sec. 2. Section 455B.109, subsection 4, Code 2001, is amended to read as follows:
4. All civil penalties assessed by the department and interest on the penalties shall be deposited in the general fund of the state. However, civil penalties assessed by the department and interest on the civil penalties, arising out of violations ~~committed by~~ involving animal feeding operations under division II, part 2, shall be deposited in the ~~manure storage indemnity animal agriculture compliance~~ fund as created in section ~~455J.2~~ 455B.127. Civil penalties assessed by the department and interest on the penalties arising out of violations committed by animal feeding operations under division III, which may be assessed pursuant to section 455B.191, shall also be deposited in the ~~manure storage indemnity animal agriculture compliance~~ fund as created in section 455J.2.

Sec. 3. Section 455B.110, subsection 3, Code 2001, is amended by striking the subsection.

PART 2
ANIMAL FEEDING OPERATIONS

Sec. 4. NEW SECTION. 455B.125 COUNTY ASSESSMENT OF FEES PROHIBITED.

A county shall not assess or collect a fee under this chapter for the regulation of animal agriculture, including but not limited to any fee related to the filing, consideration, or evaluation of an application for a construction permit pursuant to section 455B.200A or the filing of a manure management plan pursuant to section 455B.203.

Sec. 5. NEW SECTION. 455B.126 ANIMAL AGRICULTURE COMPLIANCE FEES — DELINQUENCIES.

If a fee imposed under this chapter for deposit into the animal agriculture compliance fund is delinquent, the department may charge interest on any amount of the fee that is delinquent. The rate of interest shall not be more than the current rate published in the Iowa administrative bulletin by the department of revenue and finance pursuant to section 421.7. The interest amount shall be computed from the date that the fee is delinquent, unless the department designates a later date. The interest amount shall accrue for each month in which a delinquency is calculated as provided in section 421.7, and counting each fraction of a month as an entire month. The interest amount shall become part of the amount of the fee due.

Sec. 6. NEW SECTION. 455B.127 ANIMAL AGRICULTURE COMPLIANCE FUND.

1. An animal agriculture compliance fund is created in the state treasury under the control of the department. The compliance fund is separate from the general fund of the state.

2. The compliance fund is composed of two accounts, the general account and the assessment account.

a. The general account is composed of moneys appropriated by the general assembly and moneys available to and obtained or accepted by the department from the United States government or private sources for placement in the compliance fund. Unless otherwise specifically provided in statute, moneys required to be deposited in the compliance fund shall be deposited into the general account. The general account shall include moneys deposited into the account from all of the following:

(1) The construction permit application fee required pursuant to section 455B.200A.

(2) The manure management plan filing fee required pursuant to section 455B.203.

(3) Fees paid by persons required to be certified as commercial manure applicators or confinement site manure applicators pursuant to section 455B.203A.

(4) The collection of civil penalties assessed by the department and interest on civil penalties, arising out of violations involving animal feeding operations as provided in sections 455B.167 and 455B.207.

b. The assessment account is composed of moneys collected from the annual compliance fee required pursuant to section 455B.203C.

3. Moneys in the compliance fund are appropriated to the department exclusively to pay the expenses of the department in administering and enforcing the provisions of division II, part 2, and division III, part 1, subpart A,³ as necessary to ensure that animal feeding operations comply with all applicable requirements of those provisions, including rules adopted or orders issued by the department pursuant to those provisions. The moneys shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this subsection. The department shall not transfer moneys from the compliance fund's assessment account to another fund or account, including but not limited to the fund's general account.

4. Moneys in the fund, which may be subject to warrants written by the director of revenue and finance, shall be drawn upon the written requisition of the director of the department of natural resources or an authorized representative of the director.

5. Notwithstanding section 8.33, any unexpended balance in the compliance fund at the end of the fiscal year shall be retained in the fund. Notwithstanding section 12C.7, subsection 2,

³ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §247, 262 herein

interest, earnings on investments, or time deposits of the moneys in the compliance fund shall be credited to the fund.

Sec. 7. Section 455B.161, subsections 2, 3, 4, 5, 9, 11, 16, 21, and 24, Code 2001, are amended to read as follows:

2. ~~“Anaerobic lagoon” means an impoundment used in conjunction with an animal feeding operation unformed manure storage structure, if the primary function of the impoundment structure is to store and stabilize organic wastes manure, the impoundment structure is designed to receive wastes manure on a regular basis, and the impoundment’s structure’s design waste loading rates provide that the predominant biological activity is anaerobic. An anaerobic lagoon does not include any of the following:~~

~~a. A confinement feeding operation structure.~~

~~b. A runoff control basin which collects and stores only precipitation-induced runoff from an animal feeding operation in which animals are confined to areas which are unroofed or partially roofed and in which no crop, vegetation, or forage growth or residue cover is maintained during the period in which animals are confined in the operation.~~

~~c. b. An anaerobic treatment system which that includes collection and treatment facilities for all off gases.~~

3. ~~“Animal” means a domesticated animal belonging to the bovine, porcine, ovine, caprine, equine, or avian species classified as cattle, swine, horses, sheep, chickens or turkeys.~~

4. ~~“Animal feeding operation” means a lot, yard, corral, building, or other area in which animals are confined and fed and maintained for forty-five days or more in any twelve-month period, and all structures used for the storage of manure from animals in the operation. Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common system for manure storage. An animal feeding operation does not include a livestock market.~~

5. ~~“Animal feeding operation structure” means an anaerobic lagoon or confinement feeding operation structure a confinement building, manure storage structure, or egg washwater storage structure.~~

9. ~~“Confinement feeding operation building” or “confinement building” means a building used in conjunction with a confinement feeding operation to house animals.~~

11. ~~“Confinement feeding operation structure” means a formed manure storage an animal feeding operation structure, egg washwater storage structure, earthen manure storage basin, or confinement building. A confinement feeding operation structure does not include an anaerobic lagoon that is part of a confinement feeding operation.~~

16. ~~“Formed manure storage structure” means a structure, either covered or uncovered, impoundment used to store manure from a confinement an animal feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials.~~

21. ~~“Small animal feeding operation” means an animal feeding operation which has an animal weight animal unit capacity of two hundred thousand pounds or less for animals other than bovine, or four hundred thousand pounds five hundred or less for bovine fewer animal units.~~

24. ~~“Unformed manure storage structure” means a covered or uncovered animal feeding operation structure in which impoundment used to store manure is stored, other than a formed manure storage structure, which is includes an anaerobic lagoon, aerobic structure, or earthen manure storage basin.~~

Sec. 8. Section 455B.161, Code 2001, is amended by adding the following new subsections:
NEW SUBSECTION. 6A. “Animal unit” means a unit of measurement based upon the product of multiplying the number of animals of each category by a special equivalency factor as follows:

- | | |
|-------------------------------------|-------|
| a. Slaughter or feeder cattle | 1.000 |
| b. Immature dairy cattle | 1.000 |

c. Mature dairy cattle	1.400
d. Butcher or breeding swine weighing more than fifty-five pounds	0.400
e. Swine weighing fifteen pounds or more but not more than fifty-five pounds	0.100
f. Sheep or lambs	0.100
g. Horses	2.000
h. Turkeys	0.018
i. Broiler or layer chickens	0.010

NEW SUBSECTION. 6B. "Animal unit capacity" means a measurement used to determine the maximum number of animal units that may be maintained as part of an animal feeding operation at any one time, including as provided in sections 455B.161A and 455B.200B.

NEW SUBSECTION. 8A. "Commission" means the environmental protection commission created pursuant to section 455A.6.

NEW SUBSECTION. 18A. "Manure storage structure" means a formed manure storage structure or an unformed manure storage structure. A manure storage structure does not include an egg washwater storage structure.

NEW SUBSECTION. 18B. "Public thoroughfare" means a road, street, or bridge that is constructed or maintained by the state or a political subdivision.

NEW SUBSECTION. 19A. "Qualified confinement feeding operation" means a confinement feeding operation having an animal unit capacity of any of the following:

- a. For a confinement feeding operation maintaining animals other than swine as part of a farrowing and gestating operation or farrow-to-finish operation or cattle as part of a cattle operation, five thousand three hundred thirty-three or more animal units.
- b. For a confinement feeding operation maintaining swine as part of a farrowing and gestating operation, two thousand five hundred or more animal units.
- c. For a confinement feeding operation maintaining swine as part of a swine farrow-to-finish operation, five thousand four hundred or more animal units.
- d. For a confinement feeding operation maintaining cattle, eight thousand five hundred or more animal units.

Sec. 9. Section 455B.161A, subsection 1, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

1. Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common system for manure storage. For purposes of determining whether two or more confinement feeding operations are adjacent, all of the following must apply:

a. At least one confinement feeding operation structure must be constructed on or after March 21, 1996.

b. A confinement feeding operation structure which is part of one confinement feeding operation is separated by less than a minimum required distance from a confinement feeding operation structure which is part of the other confinement feeding operation. The minimum required distance shall be as follows:

(1) (a) One thousand two hundred fifty feet for a confinement feeding operation having an animal unit capacity of less than three thousand animal units for animals other than swine maintained as part of a swine farrowing and gestating operation or farrow-to-finish operation, or cattle maintained as part of a cattle operation.

(b) One thousand two hundred fifty feet for a confinement feeding operation having an animal unit capacity of less than one thousand two hundred fifty animal units for swine maintained as part of a farrowing and gestating operation, less than two thousand seven hundred animal units for swine maintained as part of a farrow-to-finish operation, or less than four thousand animal units for cattle maintained as part of a cattle operation.

(2) (a) One thousand five hundred feet for a confinement feeding operation having an ani-

mal unit capacity of three thousand or more but less than five thousand animal units for animals other than swine maintained as part of a swine farrowing and gestating operation or farrow-to-finish operation, or cattle maintained as part of a cattle operation.

(b) One thousand five hundred feet for a confinement feeding operation having an animal unit capacity of one thousand two hundred fifty or more but less than two thousand animal units for swine maintained as part of a swine farrowing and gestating operation, two thousand seven hundred or more but less than five thousand four hundred animal units for swine maintained as part of a farrow-to-finish operation, or four thousand or more but less than six thousand five hundred animal units for cattle maintained as part of a cattle operation.

(3) (a) Two thousand five hundred feet for a confinement feeding operation having an animal unit capacity of five thousand or more animal units for animals other than swine maintained as part of a swine farrowing and gestating operation or farrow-to-finish operation, or cattle maintained as part of a cattle operation.

(b) Two thousand five hundred feet for a confinement feeding operation having an animal unit capacity of two thousand or more animal units for swine maintained as part of a swine farrowing and gestating operation, five thousand four hundred animal units or more for swine maintained as part of a farrow-to-finish operation, or six thousand five hundred or more animal units for cattle maintained as part of a cattle operation.

Sec. 10. Section 455B.161A, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 3. In calculating the animal unit capacity of a confinement feeding operation, the animal unit capacity shall include the animal unit capacity of all confinement feeding operation buildings which are part of the confinement feeding operation, unless a confinement feeding operation building has been abandoned.

NEW SUBSECTION. 4. A confinement feeding operation structure is abandoned if the confinement feeding operation structure has been razed, removed from the site of a confinement feeding operation, filled in with earth, or converted to uses other than a confinement feeding operation structure so that it cannot be used as a confinement feeding operation structure without significant reconstruction.

NEW SUBSECTION. 5. All distances between locations of objects provided in this part shall be measured in feet from their closest points, as provided by rules adopted by the department. However, a distance between a public thoroughfare and a confinement feeding operation structure shall be measured from the portion of the right-of-way which is closest to the confinement feeding operation structure.

Sec. 11. Section 455B.162, subsection 1, unnumbered paragraphs 1 and 2, Code 2001, are amended to read as follows:

Except as provided in ~~subsection subsections 3 and 6~~, and sections 455B.163 and 455B.165, this subsection applies to ~~animal confinement~~ feeding operation structures constructed on or after May 31, 1995, but prior to January 1, 1999; and to the expansion of structures constructed prior to January 1, 1999.

The following table represents the minimum separation distance in feet required between ~~an animal a~~ confinement feeding operation structure and a residence not owned by the owner of the ~~animal confinement~~ feeding operation, or a commercial enterprise, bona fide religious institution, or an educational institution:

Sec. 12. Section 455B.162, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Except as provided in ~~subsection subsections 3 and 6~~, and sections 455B.163 and 455B.165, this subsection applies to ~~animal confinement~~ feeding operation structures constructed on or after January 1, 1999, but prior to March 1, 2003, and to the expansion of structures constructed on or after January 1, 1999, but prior to March 1, 2003.

PARAGRAPH DIVIDED. The following table represents the minimum separation distance in feet required between ~~an animal a confinement~~ feeding operation structure and a residence not owned by the owner of the ~~animal confinement~~ feeding operation, or a commercial enterprise, bona fide religious institution, or an educational institution:

Sec. 13. Section 455B.162, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Except as provided in subsection 6, and sections 455B.163 and 455B.165, this subsection applies to ~~animal confinement~~ feeding operation structures constructed on or after May 31, 1995, but prior to March 1, 2003; to the expansion of structures constructed on or after May 31, 1995, but prior to March 1, 2003; and to the expansion of structures constructed prior to May 31, 1995.

PARAGRAPH DIVIDED. The following table represents the minimum separation distance in feet required between ~~animal a confinement~~ feeding operation structures ~~structure~~ and a public use area; or between a confinement feeding operation structure and a residence not owned by the owner of the ~~animal confinement~~ feeding operation, a commercial enterprise, a bona fide religious institution, or an educational institution, if the residence, commercial enterprise, religious institution, or educational institution is located within the corporate limits of a city:

Sec. 14. Section 455B.162, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. Except as provided in subsections 3B and 6, and sections 455B.163 and 455B.165, this subsection applies to confinement feeding operation structures constructed on or after March 1, 2003, and to the expansion of confinement feeding operation structures constructed on or after March 1, 2003.

The following table represents the minimum separation distance in feet required between a confinement feeding operation structure and a residence not owned by the owner of the confinement feeding operation, a commercial enterprise, a bona fide religious institution, or an educational institution:

Type of structure	For a confinement feeding operation having an animal unit capacity of less than 1,000 animal units	For a confinement feeding operation having an animal unit capacity of 1,000 or more but less than 3,000 animal units	For a confinement feeding operation having an animal unit capacity of 3,000 or more animal units
Anaerobic lagoon	1,875	2,500	3,000
Uncovered earthen manure storage basin	1,875	2,500	3,000
Uncovered formed manure storage structure	1,500	2,000	2,500
Covered earthen manure storage basin	1,250	1,875	2,375
Covered formed manure storage structure	1,250	1,875	2,375

Confinement building	1,250	1,875	2,375
Egg washwater storage structure	1,000	1,500	2,000

NEW SUBSECTION. 3B. Except as provided in subsection 6, and sections 455B.163 and 455B.165, this subsection applies to confinement feeding operation structures constructed on or after March 1, 2003, and to the expansion of confinement feeding operation structures constructed on or after March 1, 2003.

The following table represents the minimum separation distance in feet required between a confinement feeding operation structure and a public use area; or between a confinement feeding operation structure and a residence not owned by the owner of the confinement feeding operation, a commercial enterprise, a bona fide religious institution, or an educational institution, if the residence, commercial enterprise, religious institution, or educational institution is located within the corporate limits of a city:

Type of structure	For a confinement feeding operation having an animal unit capacity of less than 1,000 animal units	For a confinement feeding operation having an animal unit capacity of 1,000 or more but less than 3,000 animal units	For a confinement feeding operation having an animal unit capacity of 3,000 or more animal units
Confinement feeding operation structure	1,875	2,500	3,000

Sec. 15. Section 455B.162, subsection 4, Code 2001, is amended to read as follows:

4. Except as provided in section 455B.165, ~~on and after January 1, 1999, an animal a confinement feeding operation structure shall not be constructed or expanded within one hundred feet from a public thoroughfare, including a road, street, or bridge which is constructed or maintained by the state or a political subdivision.~~

Sec. 16. Section 455B.162, subsection 6, paragraphs a and c, Code 2001, are amended by striking the paragraphs.

Sec. 17. Section 455B.162, subsection 6, paragraph b, Code 2001, is amended to read as follows:

b. ~~a. A Except as provided in paragraph "b", a qualified confinement feeding operation storing manure in a manure storage structure shall only use an animal feeding operation a manure storage structure which that employs bacterial action which is maintained by the utilization of air or oxygen, and which shall include aeration equipment. The type and degree of treatment technology required to be installed shall be based on the size of the confinement feeding operation, according to rules adopted by the department. The equipment shall be installed, operated, and maintained in accordance with the manufacturer's instructions and requirements of rules adopted pursuant to this subsection.~~

~~b. The requirements of paragraph "a" do not apply to any of the following:~~

~~(1) A qualified confinement feeding operation which includes a confinement feeding operation structure constructed prior to May 31, 1995.~~

~~(2) A qualified confinement feeding operation that stores manure on a dry matter basis.~~

Sec. 18. Section 455B.163, subsections 1 and 2, Code 2001, are amended to read as follows:

1. a. ~~An animal~~ For a confinement feeding operation structure as constructed or expanded prior to January 1, 1999, any construction or expansion of a confinement feeding operation structure complies with the distance requirements applying to that structure as provided in section 455B.162, subsections 1 and 3.

b. ~~An animal~~ For a confinement feeding operation structure as constructed or expanded on or after January 1, 1999, but prior to March 1, 2003, any construction or expansion of a confinement feeding operation structure complies with the distance requirements applying to that structure as provided in section 455B.162, subsections 2 and 3.

c. For a confinement feeding operation constructed on or after March 1, 2003, any construction or expansion of a confinement feeding operation structure complies with the distance requirements applying to that structure as provided in section 455B.162, subsections 3A and 3B.

2. All of the following apply to the expansion of the ~~animal~~ confinement feeding operation:

a. No portion of the ~~animal~~ confinement feeding operation after expansion is closer than before expansion to a location or object for which separation is required under section 455B.162.

b. ~~The~~ For a confinement feeding operation that includes a confinement feeding operation structure constructed prior to March 1, 2003, the animal weight capacity of the animal confinement feeding operation as expanded is not more than the lesser of the following:

(1) Double its animal weight capacity on the following dates:

(a) May 31, 1995, for an animal a confinement feeding operation that includes a confinement feeding operation structure constructed prior to January 1, 1999, or on

(b) January 1, 1999, for an animal a confinement feeding operation that only includes a confinement feeding operation structure constructed on or after January 1, 1999, but does include a confinement feeding operation structure constructed prior to March 1, 2003.

(2) Either of the following:

(a) Six hundred twenty-five thousand pounds animal weight capacity for animals other than bovine cattle.

(b) One million six hundred thousand pounds animal weight capacity for bovine cattle.

c. For a confinement feeding operation that does not include a confinement feeding operation structure constructed prior to March 1, 2003, the animal unit capacity of the confinement feeding operation as expanded is not more than the lesser of the following:

(1) Double its animal unit capacity on March 1, 2003.

(2) One thousand animal units.

Sec. 19. Section 455B.163, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The ~~animal~~ confinement feeding operation ~~was includes a confinement feeding operation structure that is~~ constructed prior to ~~January 1, 1999~~ March 1, 2003, and is expanded by replacing one or more unformed manure storage structures with one or more formed manure storage structures, if all of the following apply:

Sec. 20. Section 455B.163, subsection 3, paragraph a, Code 2001, is amended to read as follows:

a. The animal weight capacity or animal unit capacity, whichever is applicable, is not increased for that portion of the ~~animal~~ confinement feeding operation that utilizes all replacement formed manure storage structures.

Sec. 21. Section 455B.165, subsections 1, 4, and 5, Code 2001, are amended by striking the subsections.

Sec. 22. Section 455B.165, subsection 3, paragraph a, Code 2001, is amended to read as follows:

a. ~~An animal~~ A confinement feeding operation structure which is constructed or expanded, if the titleholder of the land benefiting from the distance separation requirement executes a written waiver with the titleholder of the land where the structure is located. ~~If an animal a~~ confinement feeding operation structure is constructed or expanded within the separation distance required between ~~an animal a~~ confinement feeding operation structure and a public thoroughfare as required pursuant to section 455B.162, the state or a political subdivision constructing or maintaining the public thoroughfare benefiting from the distance separation requirement may execute a written waiver with the titleholder of the land where the structure is located. The animal confinement feeding operation structure shall be constructed or expanded under such terms and conditions that the parties negotiate.

Sec. 23. NEW SECTION. 455B.166 DEPARTMENT OF NATURAL RESOURCES — DEVELOPMENT OF COMPREHENSIVE PLANS AND PROGRAMS FOR AIR QUALITY.

1. As used in this section, unless the context otherwise requires:

a. “Airborne pollutant” means hydrogen sulfide, ammonia, or odor.

b. “Separated location” means a location or object from which a separation distance is required under section 455B.162, other than a public thoroughfare.

2. The department shall conduct a comprehensive field study to monitor the level of airborne pollutants emitted from animal feeding operations in this state, including but not limited to each type of confinement feeding operation structure.

3. a. After the completion of the field study, the department may develop comprehensive plans and programs for the abatement, control, and prevention of airborne pollutants originating from animal feeding operations in accordance with this section. The comprehensive plans and programs may be developed if the baseline data from the field study demonstrates to a reasonable degree of scientific certainty that airborne pollutants emitted by an animal feeding operation are present at a separated location at levels commonly known to cause a material and verifiable adverse health effect. The department may adopt any comprehensive plans or programs in accordance with chapter 17A prior to implementation or enforcement of an air quality standard but in no event shall the plans and programs provide for the enforcement of an air quality standard prior to December 1, 2004.

b. Any air quality standard established by the department for animal feeding operations shall be based on and enforced at distances measured from a confinement feeding operation structure to a separated location. In providing for the enforcement of the standards, the department shall take all initial measurements at the separated location. If the department determines that a violation of the standards exists, the department may conduct an investigation to trace the source of the airborne pollutant. This section does not prohibit the department from entering the premises of an animal feeding operation in compliance with section 455B.103. The department shall comply with standard biosecurity requirements customarily required by the animal feeding operation which are necessary in order to control the spread of disease among an animal population.

c. The department shall establish recommended best management practices, mechanisms, processes, or infrastructure under the comprehensive plans and programs in order to reduce the airborne pollutants emitted from an animal feeding operation.

d. The department shall provide a procedure for the approval and monitoring of alternative or experimental practices, mechanisms, processes, or infrastructure to reduce the airborne pollutants emitted from an animal feeding operation, which may be incorporated as part of the comprehensive plans and programs developed under this section.

Sec. 24. NEW SECTION. 455B.167 CIVIL PENALTY.

A person who violates this part shall be subject to a civil penalty which shall be established, assessed, and collected in the same manner as provided in section 455B.109. Any civil penalty

collected shall be deposited in the animal agriculture compliance fund created in section 455B.127.

Sec. 25. Section 455B.171, subsections 2, 3, 4, 5, 6, 8, 20, 43, and 47, Code 2001, are amended by striking the subsections.

Sec. 26. Section 455B.191, subsection 8, Code 2001, is amended to read as follows:

8. Moneys assessed and collected in civil penalties and interest earned on civil penalties, arising out of a violation involving an animal feeding operation, shall be deposited in the ~~manure storage indemnity~~ animal agriculture compliance fund as created in section ~~455J.2~~ 455B.127.

SUBPART B ANIMAL FEEDING OPERATIONS

Sec. 27. Section 455B.200, Code 2001, is amended to read as follows:
455B.200 GENERAL.

1. The commission shall establish by rule adopted pursuant to chapter 17A, requirements relating to the construction, including expansion, or operation of animal feeding operations, including related animal feeding operation structures. The requirements shall include but are not limited to minimum manure control, the issuance of permits, and departmental investigations, inspections, and testing.

2. Any provision referring generally to compliance with the requirements of this chapter as applied to animal feeding operations also includes compliance with requirements in rules adopted by the commission pursuant to this section, orders issued by the department as authorized under this chapter, and the terms and conditions applicable to permits or manure management plans required under this subpart. However, for purposes of approving or disapproving an application for a construction permit as provided in section 455B.200E, conditions for the approval of an application based on results produced by a master matrix are not requirements of this chapter until the department approves or disapproves an application based on those results.

3. The department and the attorney general shall enforce the provisions of this chapter in the same manner as provided in division I, unless otherwise provided in this section.⁴

Sec. 28. Section 455B.200A, subsections 1 through 4, Code 2001, are amended to read as follows:

1. The department shall ~~issue~~ approve or disapprove applications for permits for the construction, including the expansion, of ~~animal confinement~~ confinement feeding operation structures, ~~including structures which are part of confinement feeding operations, as provided by rules adopted pursuant to section 455B.200 this chapter.~~ The department's decision to approve or disapprove a permit for the construction of a confinement feeding operation⁵ shall be based on whether the application is submitted according to procedures required by the department and the application meets standards established by the department. A person shall not begin construction of a confinement feeding operation structure requiring a permit under this section, unless the department shall issue a first approves the person's application and issues to the person a construction permit to an animal feeding operation if an application is submitted according to procedures required by the department and. The department shall provide conditions for requiring when a person must obtain a construction permit.

a. Except as provided in paragraph "b", a person must obtain a permit to construct any of the following:

(1) A confinement feeding operation structure if after construction its confinement feeding operation would have an animal unit capacity of at least one thousand animal units.

(2) The confinement feeding operation structure is an unformed manure storage structure.

⁴ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §250, 262 herein

⁵ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §251, 262 herein

b. A person is not required to obtain a permit to construct a confinement feeding operation structure, if any of the following apply:

(1) The confinement feeding operation structure, if constructed, would be part of a small animal feeding operation. However, the person must obtain a permit under this section if the confinement feeding operation structure is an unformed manure storage structure.

(2) The confinement feeding operation structure is part of a confinement feeding operation which is owned by a research college conducting research activities as provided in section 455B.206.

2. The department shall issue a construction permit upon approval of an application. The department shall approve the application meets standards established by the department, if the application is submitted to the county board of supervisors in the county where the proposed confinement feeding operation is to be located as required pursuant to section 455B.200E, and the application meets the requirements of this chapter. If a county submits an approved recommendation pursuant to a construction evaluation resolution filed with the department, the application must also achieve a satisfactory rating produced by the master matrix used by the board or department under section 455B.200E. The department shall approve the application regardless of whether the animal feeding operation applicant is required to obtain such to⁶ be issued a construction permit. The department shall not require that a person obtain a permit for the construction of an animal feeding operation structure if the structure is part of a small animal feeding operation. For purposes of this section, an animal feeding operation structure includes a manure storage structure.

2. 3. The department shall not issue approve an application for a construction permit for the construction of an animal feeding operation structure which is part of a confinement feeding operation unless the person applicant submits all of the following:

a. An indemnity fee as provided in section 455J.3 which that the department shall deposit into the manure storage indemnity fund created in section 455J.2.

b. A manure management plan as provided in section 455B.203 and manure management plan filing fee as provided in section 455B.203C.

c. A construction permit application fee as provided in section 455B.203C.

3A. The applicant may submit a master matrix as completed by the applicant.

3. 4. a. A confinement feeding operation meets threshold requirements under this paragraph if the confinement feeding operation after construction of a proposed confinement feeding operation structure would have a minimum animal unit capacity of the following:

(1) Three thousand animal units for animals other than swine maintained as part of a swine farrowing and gestating operation or farrow-to-finish operation or cattle maintained as part of a cattle operation.

(2) One thousand two hundred fifty animal units for swine maintained as part of a swine farrowing and gestating operation.

(3) Two thousand seven hundred fifty animal units for swine maintained as part of a farrow-to-finish operation.

(4) Four thousand animal units for cattle maintained as part of a cattle operation.

b. The department shall not issue approve an application for a construction permit for the construction of unless the following apply:

(1) If the application is for a permit to construct an unformed manure storage structure, the application must include a statement approved by a professional engineer certifying that the construction of the unformed manure storage structure complies with the construction design standards required in this subpart.

(2) If the application is for a permit to construct three or more animal confinement feeding operation structures unless the applicant files, the application must include a statement approved by a professional engineer registered pursuant to chapter 542B certifying providing that the construction of the animal confinement feeding operation structures will not impede the drainage through established drainage tile lines which cross property boundary lines unless measures are taken to reestablish the drainage prior to completion of construction. For

⁶ According to enrolled Act

a confinement feeding operation that meets threshold requirements, the statement must be approved by a professional engineer. Otherwise, if the application is for a permit to construct a formed manure storage structure, the statement must be part of the construction design statement as provided in section 455B.200C.

(3) If the application is for a permit to construct a formed manure storage structure, other than for a confinement feeding operation meeting threshold requirements, the applicant must include a construction design statement as provided in section 455B.200C. An application for a permit to construct a formed manure storage structure as part of a confinement feeding operation that meets threshold requirements must include a statement approved by a professional engineer certifying that the construction of the formed manure storage structure complies with the requirements of this subpart.

(4) The department may only require that an application for a permit to construct a formed manure storage structure or egg washwater storage structure that is part of a confinement feeding operation meeting threshold requirements include an engineering report, construction plans, or specifications prepared by a licensed professional engineer or the natural resources conservation service of the United States department of agriculture.

4. 5. Prior As a condition to issuing a permit to a person approving an application for the construction of an animal feeding operation a construction permit, the department may require any of the following:

a. The installation of a related pollution control device or practice, including but not limited to the installation and operation of a hydrological water pollution monitoring system for an exclusively earthen unformed manure storage structure according to rules which shall be adopted by the department.

b. The department's approval of the installation of any proposed system to permanently lower the groundwater table at a site as part of the construction of an unformed manure storage structure, as is necessary to ensure that the unformed manure storage structure does not pollute groundwater sources, including providing for standards as provided in section 455B.205.

Sec. 29. Section 455B.200A, subsections 5 through 8, Code 2001, are amended by striking the subsections.

Sec. 30. Section 455B.200B, unnumbered paragraph 1, Code 2001, is amended to read as follows:

For purposes of this part subpart, all of the following shall apply:

Sec. 31. Section 455B.200B, subsection 1, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

1. Two or more animal feeding operations under common ownership or management are deemed to be a single animal feeding operation if they are adjacent or utilize a common area or system for manure disposal. In addition, for purposes of determining whether two or more confinement feeding operations are adjacent, all of the following must apply:

a. At least one confinement feeding operation structure must be constructed on and after May 21, 1998.

b. A confinement feeding operation structure which is part of one confinement feeding operation is separated by less than a minimum required distance from a confinement feeding operation structure which is part of the other confinement feeding operation. The minimum required distance shall be as follows:

(1) One thousand two hundred fifty feet for confinement feeding operations having a combined animal unit capacity of less than one thousand animal units.

(2) Two thousand five hundred feet for confinement feeding operations having a combined animal unit capacity of one thousand animal units or more.

Sec. 32. Section 455B.200B, Code 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 3. In calculating the animal unit capacity of a confinement feeding operation, the animal unit capacity shall include the animal unit capacity of all confinement feeding operation buildings which are part of the confinement feeding operation, unless a confinement feeding operation building has been abandoned as provided in section 455B.161A.

NEW SUBSECTION. 4. All distances between locations or objects provided in this subpart shall be measured in feet from their closest points.

NEW SUBSECTION. 5. a. The department shall designate by rule each one hundred year floodplain in this state according to the location of the one hundred year floodplain. A person shall not be prohibited from constructing a confinement feeding operation⁷ on a one hundred year floodplain unless the one hundred year floodplain is designated by rule in accordance with this subsection.

b. (1) Until the effective date of rules adopted by the department to designate the location of each one hundred year floodplain in this state, a person shall not construct a confinement feeding operation structure on land that contains a soil type classified as alluvial unless the one⁸ of the following applies:

(a) If the person does not apply for a construction permit as provided in section 455B.200A, the person must petition the department for a declaratory order pursuant to section 17A.9 to determine whether the location of the proposed confinement feeding operation structure is located on a one hundred year floodplain. The department shall issue a declaratory order in response to the petition, notwithstanding any other provision provided in section 17A.9 to the contrary, within thirty days from the date that the petition is filed with the department.

(b) If the person does apply for a construction permit as provided in section 455B.200A, the person must identify that the land contains a soil type classified as alluvial. The department shall determine whether the land is located on a one hundred year floodplain.

(2) The department shall provide in its declaratory order or its approval or disapproval of a construction permit application a determination regarding whether the confinement feeding operation is to be located on a one hundred year floodplain, whether the confinement feeding operation may be constructed at the location, and any conditions for the construction.

(3) This paragraph "b" is repealed on the effective date that rules are adopted by the department pursuant to paragraph "a". The department shall provide a caption on the adopted rule as published in the Iowa administrative bulletin as provided in section 17A.4, stating that this paragraph is repealed as provided in this subparagraph subdivision. The director of the department shall deliver a copy of the adopted rule to the Iowa Code editor.⁹

NEW SUBSECTION. 6. As used in this subpart, unless the context otherwise requires:

a. "Critical public area" means land as designated by the department pursuant to rules adopted pursuant to chapter 17A, if all of the following apply:

(1) The land is part of a public park, preserve, or recreation area that is owned or managed by the federal government; by the department, including under chapter 461A or 465C; or by a political subdivision.

(2) The land has a unique scenic, cultural, archaeological, scientific, or historic significance or contains a rare or valuable ecological system.

b. "Designated wetland" means land designated as a protected wetland by the United States department of the interior or the department of natural resources, including but not limited to a protected wetland as defined in section 456B.1, if the land is owned and managed by the federal government or the department of natural resources. However, a designated wetland does not include land where an agricultural drainage well has been plugged causing a temporary wetland or land within a drainage district or levee district.

c. "Document" means any form required to be processed by the department under this subpart regulating animal feeding operations, including but not limited to applications or related materials for permits as provided in section 455B.200A, manure management plans as provided in section 455B.203, comment or evaluation by a county board of supervisors consider-

⁷ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §252, 262 herein

⁸ According to enrolled Act

⁹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §253, 262 herein

ing an application for a construction permit, the department's analysis of the application including using and responding to a master matrix pursuant to section 455B.200E, and notices required under those sections.

d. "High-quality water resource" means that part of a water source or wetland that the department has designated as any of the following:

(1) A high-quality water (Class "HQ") or a high-quality resource water (Class "HQR") according to 567 IAC ch. 61, in effect on January 1, 2001.

(2) A protected water area system, according to a state plan adopted by the department in effect on January 1, 2001.

e. "Karst terrain" means land having karst formations that exhibit surface and subterranean features of a type produced by the dissolution of limestone, dolomite, or other soluble rock and characterized by closed depressions, sinkholes, or caves.

f. "Major water source" means a water source that is a lake, reservoir, river, or stream located within the territorial limits of the state, or any marginal river area adjacent to the state, if the water source is capable of supporting a floating vessel capable of carrying one or more persons during a total of a six-month period in one out of ten years, excluding periods of flooding which has been identified by rules adopted by the commission.

g. "One hundred year floodplain" means the land adjacent to a major water source, if there is at least a one percent chance that the land will be inundated in any one year, according to calculations adopted by rules adopted pursuant to section 455B.200. In making the calculations, the department shall consider available maps or data compiled by the federal emergency management agency.

h. "Professional engineer" means a person engaged in the practice of engineering as defined in section 542B.2 who is issued a certificate of licensure as a professional engineer pursuant to section 542B.17.

i. "Water of the state" means the same as defined in section 455B.171.

j. "Water source" means a lake, river, reservoir, creek, stream, ditch, or other body of water or channel having definite banks and a bed with water flow, except lakes or ponds without outlet to which only one landowner is riparian.

Sec. 33. NEW SECTION. 455B.200C CONSTRUCTION DESIGN STATEMENT — FORMED MANURE STORAGE STRUCTURES.

1. a. Except as provided in paragraph "b", a person shall not construct a formed manure storage structure, unless the person submits a construction design statement for filing with the department.

b. The following persons are not required to submit a construction design statement with the department:

(1) A person who constructs a formed manure storage structure as part of a small animal feeding operation.

(2) A person who submits a statement approved by a professional engineer certifying that the construction of the formed manure storage structure complies with the construction design standards required in this subpart, including a person required to submit such a statement as part of an application for a construction permit pursuant to section 455B.200A.

2. The construction design statement must include all of the following:

a. A summary description of the type of formed manure storage structure proposed to be constructed, including whether such formed manure storage structure is to be constructed of concrete.

b. (1) If the formed manure storage structure is to be constructed of concrete, a statement by the person responsible for constructing the formed manure storage structure certifying that such person will construct the formed manure storage structure in accordance with the construction design standards required in this subpart.

(2) If the formed manure storage structure is not to be constructed of concrete, a statement by the person responsible for constructing the formed manure storage structure certifying that

such person will construct the formed manure storage structure in accordance with the construction design standards required in this subpart.

c. If a construction permit is required pursuant to section 455B.200A for the construction of three or more confinement feeding operation structures that include a formed manure storage structure, the contractor¹⁰ must provide that the construction of the formed manure storage structure will not impede drainage through established drainage tile lines which cross property boundary lines unless measures are taken to reestablish the drainage prior to completion of construction.

d. A manure management plan as required in section 455B.203 which may be submitted as part of an application for a construction permit as provided in section 455B.200A.

3. Unless the construction design statement is part of a construction permit application as provided in section 455B.200A, the department shall file the construction design statement. Otherwise, the department shall approve or disapprove the construction design statement as part of the construction permit application. The construction design statement shall be considered filed on the date that it is first received by the department. The department may request information from the person submitting the construction design statement if the department determines that it is incorrect or incomplete. Within thirty days after filing the construction design statement, the department shall notify the person that the construction design statement is filed and request any additional information.

Sec. 34. NEW SECTION. 455B.200D DOCUMENT PROCESSING REQUIREMENTS.

1. The department shall adopt and promulgate forms required to be completed in order to comply with this subpart including forms for documents that the department shall make available on the internet.

2. a. The department shall provide for procedures for the receipt, filing, processing, and return of documents in an electronic format, including but not limited to the transmission of documents by the internet. The department shall provide for authentication of the documents that may include electronic signatures as provided in chapter 554D.

b. The department shall to every extent feasible provide for the processing of permits and manure management plans required under this subpart using electronic systems, including programming, necessary to ensure the completeness and accuracy of the documents in accordance with the requirements of this subpart.

Sec. 35. NEW SECTION. 455B.200E CONSTRUCTION PERMIT APPLICATION PROCEDURE — COMMENTS — MASTER MATRIX.

1. a. The department shall deliver a copy or require the applicant to deliver a copy of the application for a permit to construct, including expanding, a confinement feeding operation structure pursuant to section 455B.200A, including supporting documents, to the county board of supervisors in the county where the confinement feeding operation structure subject to the permit is proposed to be constructed.

b. The county auditor or other county officer designated by the county board of supervisors may accept the application on behalf of the board. If the department requires the applicant to deliver a copy of the application to the county board of supervisors, the board shall notify the department that the board has received the application according to procedures required by the department.

2. Regardless of whether the county board of supervisors has adopted a construction evaluation resolution, the county may provide comment to the department on a construction permit application for a confinement feeding operation structure.

a. The board shall provide for comment as follows:

(1) The board shall publish a notice that the board has received the application in a newspaper having a general circulation in the county.

(2) The notice shall include all of the following:

(a) The name of the person applying to receive the construction permit.

¹⁰ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §254, 262 herein

(b) The name of the township where the confinement feeding operation structure is to be constructed.

(c) Each type of confinement feeding operation structure proposed to be constructed.

(d) The animal unit capacity of the confinement feeding operation if the construction permit were to be approved.

(e) The time when and the place where the application may be examined as provided in section 22.2.

(f) Procedures for providing public comments to the board as provided by the board.

b. The board may hold a public hearing to receive public comments regarding the application. The county board of supervisors may submit comments by the board and the public to the department as provided in this section, including but not limited to all of the following:

(1) The existence of an object or location not included in the application that benefits from a separation distance requirement as provided in section 455B.162 or 455B.204.

(2) The suitability of soils and the hydrology of the site where construction of a confinement feeding operation structure is proposed.

(3) The availability of land for the application of manure originating from the confinement feeding operation.

(4) Whether the construction of a proposed confinement feeding operation structure will impede drainage through established tile lines, laterals, or other improvements which are constructed to facilitate the drainage of land not owned by the person applying for the construction permit.

3. A county board of supervisors may adopt a construction evaluation resolution relating to the construction of a confinement feeding operation structure. The board must submit such resolution to the department for filing. If the board has submitted such resolution to the department, the board may evaluate the construction permit application and submit an adopted recommendation to the department to approve or disapprove a construction permit application as provided in this subsection. The board must make its decision to recommend approval or disapproval of the permit application as provided in this subsection.

a. For the expansion of a confinement feeding operation that includes a confinement feeding operation structure constructed prior to April 1, 2002, the board shall not evaluate a construction permit application for the construction or expansion of a confinement feeding operation structure if after the expansion of the confinement feeding operation, its animal unit capacity is one thousand six hundred sixty-six animal units or less.

b. The board must conduct an evaluation of the application using the master matrix as provided in section 455B.200F. The board's recommendation may be based on the master matrix as provided¹¹ or may be based on comments under this section regardless of the results of the master matrix.

c. In completing the master matrix, the board shall not score criteria on a selective basis. The board must score all criteria which is part of the master matrix according to the terms and conditions relating to construction as specified in the application or commitments for manure management that are to be incorporated into a manure management plan as provided in section 455B.203.

d. The board's adopted recommendation to the department shall include the specific reasons and any supporting documentation for the decision to recommend approval or disapproval of the application.

4. The department must receive the county board of supervisor's comments or evaluation for approval or disapproval of an application for a construction permit not later than thirty days following the applicant's delivery of the application to the department. Regardless of whether the department receives comments or an evaluation by a county board of supervisors, the department must approve or disapprove an application for a construction permit within sixty days following the applicant's delivery of the application to the department. However, the applicant may deliver a notice requesting a continuance. Upon receipt of a notice, the time required for the county or department to act upon the application shall be suspended for the

¹¹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §255, 262 herein

period provided in the notice, but for not more than thirty days after the department's receipt of the notice. The applicant may submit more than one notice. However, the department may provide that an application is terminated if no action is required by the department for one year following delivery of the application to the board. The department may also provide for a continuance when it considers the application. The department shall provide notice to the applicant and the board of the continuance. The time required for the department to act upon the application shall be suspended for the period provided in the notice, but for not more than thirty days. However, the department shall not provide for more than one continuance.

5. a. The department shall approve an application for a construction permit if the board of supervisors which has filed a county construction evaluation resolution submits an adopted recommendation to approve the construction permit application which may be based on a satisfactory rating produced by the master matrix to the department and the department determines that the application meets the requirements of this chapter. The department shall disapprove an application that does not satisfy the requirements of this chapter regardless of the adopted recommendation of the board. The department shall consider any timely filed comments made by the board as provided in this section to determine if an application meets the requirements of this chapter.

b. If the board submits to the department an adopted recommendation to disapprove an application for a construction permit that is based on a rating produced by the master matrix, the department shall first determine if the application meets the requirements of this chapter as provided in section 455B.200. The department shall disapprove an application that does not satisfy the requirements of this chapter regardless of any result produced by using the master matrix. If the application meets the requirements of this chapter, the department shall conduct an independent evaluation of the application using the master matrix. The department shall approve the application if it achieves a satisfactory rating according to the department's evaluation. The department shall disapprove the application if it produces an unsatisfactory rating regardless of whether the application satisfies the requirements of this chapter. The department shall consider any timely filed comments made by the board as provided in this section to determine if an application meets the requirements of this chapter.

c. If the county board of supervisors does not submit a construction evaluation resolution to the department, fails to submit an adopted recommendation, submits only comments, or fails to submit comments, the department shall approve the application if the application meets the requirements of this chapter as provided in section 455B.200.

6. The department may conduct an inspection of the site on which the construction is proposed after providing at a minimum twenty-four hours notice or upon receiving consent from the construction permit applicant. The county board of supervisors that has adopted a construction evaluation resolution may designate a county employee to accompany a departmental official during the site inspection. The county employee shall have the same right to access to the site's real estate as the departmental official conducting the inspection during the period that the county employee accompanies the departmental official. The departmental official and the county employee shall comply with standard biosecurity requirements customarily required by the confinement feeding operation that are necessary in order to control the spread of disease among an animal population.

7. Upon written request by a county resident, the county board of supervisors shall forward to the county resident a copy of the board's adopted recommendation, any county comments to the department on the permit application, and the department's responses, as provided in chapter 22.

8. a. The department shall deliver a notice to the applicant within three days of the department's decision to approve or disapprove an application for a construction permit. If the board of supervisors has submitted an adopted recommendation to the department for the approval or disapproval of a construction permit application as provided in this section, the department shall notify the board of the department's decision to approve or disapprove the application at the same time.

b. (1) The applicant may contest the department's decision by requesting a hearing and may elect to have the hearing conducted before an administrative law judge pursuant to chapter 17A or before the commission. If the applicant and a board of supervisors are both contesting the department's decision, the applicant may request that the commission conduct the hearing on a consolidated basis. The commission shall hear the case according to procedures established by rules adopted by the department. The commission may hear the case as a contested case proceeding under chapter 17A. The department, upon petition by the applicant, shall deliver to the administrative law judge or the commission a copy of the board of supervisors' recommendation together with the results produced by its master matrix and any supporting data or documents submitted with the results, comments submitted by the board to the department, and the department's evaluation of the application including the results produced by its matrix and any supporting data or documents. If the commission hears the case, its decision shall be the department's final agency action. The commission shall render a decision within thirty-five days from the date that the applicant or board files a demand for a hearing.

(2) A county board of supervisors that has submitted an adopted recommendation to the department may contest the department's decision by requesting a hearing before the commission. The commission shall hear the case according to procedures established by rules adopted by the department. The commission may hear the case as a contested case proceeding under chapter 17A. The board may request that the department submit a copy of the department's evaluation of the application including the results produced by its matrix and any supporting data or documents. The decision by the commission shall be the department's final agency action. The commission shall render a decision within thirty-five days from the date that the board initiates the proceeding.

c. Judicial review of the decision of either the department or the commission may be sought in accordance with the terms of chapter 17A.

9. An applicant for a construction permit may withdraw the permit application from consideration by the department at any time by filing a written request with the department. The filing of the request shall not prejudice the right of the applicant to resubmit the application.

Sec. 36. NEW SECTION. 455B.200F MASTER MATRIX.

1. The department shall adopt rules for the development and use of a master matrix. The purpose of the master matrix is to provide a comprehensive assessment mechanism in order to produce a statistically verifiable basis for determining whether to approve or disapprove an application for the construction, including expansion, of a confinement feeding operation structure requiring a permit pursuant to section 455B.200A.

a. The master matrix shall be used to establish conditions for the construction of a confinement feeding operation structure and for the implementation of manure management practices, which conditions shall be included in the approval of the construction permit or the original manure management plan as applicable. The master matrix shall be used to determine all of the following:

(1) The appropriate location to construct a confinement feeding operation structure, including the proximity and orientation of a proposed confinement feeding operation structure to objects or locations for which separation distances are required pursuant to sections 455B.162 and 455B.204.

(2) The appropriate type of a confinement feeding operation structure required to be constructed, including the type and size of the manure storage structure, or the installation of a related pollution-control device.

b. The master matrix shall be designed to produce quantifiable results based on the scoring of objective criteria according to an established value scale. Each criterion shall be assigned points corresponding to the value scale. The master matrix shall consider risks and factors mitigating risks if the confinement feeding operation structure were constructed according to the application.

c. The master matrix may be a computer model. However, the master matrix must be a prac-

tical tool for use by persons when completing applications and by persons when scoring applications. To every extent feasible, the master matrix shall include criteria presented in the form of questions that may be readily scored according to ascertainable data and upon which reasonable persons familiar with the location of a proposed construction site would not ordinarily disagree.

2. The master matrix shall include criteria valuing environmental and community impacts, for use by county boards of supervisors and the department. The master matrix shall include definite point selections for all criteria provided in the master matrix. The master matrix shall provide only for scoring of positive points and shall not provide for deduction of points. The master matrix shall provide for a minimum threshold score required to receive a satisfactory rating. The master matrix shall be structured to ensure that it feasibly provides for a satisfactory rating. Criteria valuing environmental impacts shall account for animal agriculture's relationship to quality of the environment and the conservation of natural resources, and may include factors that refer to all of the following:

- (a) Topography.
- (b) Surface water drainage characteristics.
- (c) The suitability of the soils and the hydrology or hydrogeology of the site.
- (d) The proximity to public use areas and critical public areas.
- (e) The proximity to water sources, including high-quality water resources.

Sec. 37. Section 455B.201, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 2A. The department may require that the owner of a confinement feeding operation install and operate a water pollution monitoring system as part of an unformed manure storage structure.

Sec. 38. Section 455B.203, subsections 1 and 2, Code 2001, are amended to read as follows:

1. The following persons shall submit a manure management plan, including an original manure management plan and an updated manure management plan, as required in this section to the department:

a. The owner of a confinement feeding operation, other than a small animal feeding operation, if the animal any of the following apply:

(1) The confinement feeding operation was constructed after May 31, 1985, regardless of whether the confinement feeding operation structure was required to be constructed pursuant to a construction permit approved by rules adopted by the department.

b. (2) The owner of a confinement feeding operation, if the confinement feeding operation is required to be constructed pursuant to a permit issued by the department. The owner constructs a manure storage structure, regardless of whether the person is required to be issued a permit for the construction pursuant to section 455B.200A or whether the person has submitted a prior manure management plan.

c. b. A person who applies manure from a confinement feeding operation, other than a small animal feeding operation, which is located in another state, if the manure is applied on land located in this state.

1A. Not more than one confinement feeding operation shall be covered by a single manure management plan.

1B. The owner of a confinement feeding operation who is required to submit a manure management plan under this section shall submit an updated manure management plan to the department on an annual basis. The department shall provide for a date that each updated manure management plan is required to be submitted to the department. The department may provide for staggering the dates on which updated manure management plans are due. To satisfy the requirements of an updated manure management plan, an owner of a confinement feeding operation may, in lieu of a¹² submitting a complete plan, file a document stating that the manure management plan has not changed, or state all of the changes made since the original manure management plan or a previous updated manure management plan was submitted and approved.

¹² According to enrolled Act

1C. The department shall deliver a copy of the manure management plan or require the person submitting the manure management plan to deliver a copy of the manure management plan to all of the following:

a. The county board of supervisors in the county where the manure storage structure owned by the person is located.

b. The county board of supervisors in the county where the manure storage structure is proposed to be constructed. If the person is required to be issued a permit for the construction of the manure storage structure as provided in section 455B.200A, the manure management plan shall accompany the application for the construction permit as provided in section 455B.200A.

c. The county board of supervisors in the county where the manure is to be applied.

The manure management plan shall be filed with the county board of supervisors. The county auditor or other county officer may accept the manure management plan on behalf of the board.

2. A person shall not remove manure from a manure storage structure which is part of a confinement feeding operation for which a manure management plan is required under this section, unless the department approves a manure management plan, including an original manure management plan and an updated manure management plan, as required in this section. The manure management plan shall be submitted by the owner of the confinement feeding operation as provided by the department on forms prescribed by the department in accordance with section 455B.200D. The owner of a confinement feeding operation required to submit a manure management plan for the construction of a manure storage structure may remove manure from another manure storage structure that is constructed, if the department has approved a manure management plan covering that manure storage structure. The department may adopt rules allowing a person to remove manure from a manure storage structure until the manure management plan is approved or disapproved by the department according to terms and conditions required by rules adopted by the department. The department shall approve or disapprove a manure management plan within sixty days of the date that the department receives a completed plan.

2A. The department shall not approve an original manure management plan unless the plan is accompanied by a manure management plan filing fee required pursuant to section 455B.203C. The department shall not approve an updated manure management plan unless the updated manure management plan is accompanied by an annual compliance fee required pursuant to section 455B.203C.

2B. a. The department shall not issue approve an application for a permit for the construction of to construct a confinement feeding operation or a related animal feeding operation structure unless the applicant owner of the confinement feeding operation applying for approval submits a an original manure management plan together with an the application for the construction permit as provided in section 455B.200A.

b. The department shall not file a construction design statement as provided in section 455B.200C, unless the owner of the confinement feeding operation structure submits an original manure management plan together with the construction design statement. The construction design statement and manure management plan may be submitted as part of a¹³ construction permit as provided in section 455B.200A.

2C. A manure management plan must be authenticated by the person required to submit the manure management plan as required by the department in accordance with section 455B.200D.

2D. The department shall approve or disapprove a manure management plan according to procedures established by the department:

a. For an original manure management plan submitted due to the construction of a confinement feeding operation structure, the department shall approve or disapprove the manure management plan as follows:

(1) If the confinement feeding operation structure is constructed pursuant to a construction

¹³ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §256, 262 herein

permit issued pursuant to section 455B.200A, the manure management plan shall be approved or disapproved as part of the construction permit application.

(2) If the confinement feeding operation structure is not constructed pursuant to a construction permit issued pursuant to section 455B.200A, the manure management plan shall be approved or disapproved within sixty days from the date that the department receives the manure management plan.

b. For an original manure management plan submitted for a reason other than the construction of a confinement feeding operation structure, the manure management plan shall be approved within sixty days from the date that the department receives the manure management plan.

c. For an updated manure management plan, the manure management plan shall be approved within thirty days from the date that the department receives the updated manure management plan.

Sec. 39. Section 455B.203, subsection 3, paragraph a, Code 2001, is amended to read as follows:

a. Restrictions on the application of manure based on all of the following:

(1) Calculations necessary to determine the land area required for the application of manure from a confinement feeding operation based on nitrogen use levels in order to obtain optimum crop yields according to a crop schedule specified in the manure management plan, and according to requirements adopted by the department after receiving recommendations from the animal agriculture consulting organization provided for in 1995 Iowa Acts, chapter 195, section 37.

(2) (a) A phosphorus index. The department shall establish a phosphorus index by rule in order to determine the manner and timing of the application to a land area of manure originating from a confinement feeding operation. The phosphorus index shall provide for the application of manure on a field basis. The phosphorus index shall be used to determine application rates, based on the number of pounds of phosphorus that may be applied per acre and application practices. The phosphorus index shall be based on the field office technical guide for Iowa as published by the United States department of agriculture, natural resources conservation service, which sets forth nutrient management standards.

(b) The department shall develop a state comprehensive nutrient management strategy. Prior to developing the state comprehensive nutrient management strategy, the department shall complete all of the following:

(i) The development of a comprehensive state nutrient budget for the maximum volume, frequency, and concentration of nutrients for each watershed that addresses all significant sources of nutrients in a water of this state on a watershed basis.

(ii) The assessment of the available nutrient control technologies required to identify and assess their effectiveness.

(iii) The development and adoption of administrative rules pursuant to chapter 17A required to establish a numeric water quality standard for phosphorus.

(c) Regardless of the development of the state comprehensive nutrient management strategy as provided in subparagraph subdivision (b), the department shall adopt rules required to establish a phosphorus index. The department shall cooperate with the United States department of agriculture natural resource conservation service technical committee for Iowa to refine and calibrate the phosphorus index in adopting the rules. Rules adopted by the department pursuant to this subparagraph shall become effective on July 1, 2003.

(d) The department shall conduct a study that considers the effects on waters of this state from phosphorus originating from municipal and industrial sources and from farm and lawn and garden use. The department shall report the results of its study to the general assembly by January 1, 2004.

(e) A person submitting a manure management plan shall include a phosphorus index as part of the manure management plan as follows:

(i) A person who has submitted an original manure management plan prior to April 1, 2002, shall not be required to submit a manure management plan update which includes a phosphorus index, until on and after the four-year anniversary date that the department's rules adopted to implement the phosphorus index become effective.

(ii) A person required to submit an original manure management plan on and after April 1, 2002, but prior to the date that is sixty days after the department's rules adopted to implement the phosphorus index become effective, shall not be required to submit a manure management plan update that includes a phosphorus index until on and after the two-year anniversary date that the department's rules adopted to implement the phosphorus index become effective.

(iii) A person required to submit an original manure management plan on and after the date that is sixty days after the department's rules adopted to implement the phosphorus index become effective shall include the phosphorus index as part of the original manure management plan and updated manure management plans.

Subparagraph subdivisions (b) through (e) and this paragraph are repealed on the date that any person who has submitted an original manure management plan prior to April 1, 2002, is required to submit a manure management plan update which includes a phosphorus index as provided in subparagraph subdivision (c).¹⁴ subparagraph subdivision part (i). The department shall publish a notice in the Iowa administrative bulletin published immediately prior to that date, and the director of the department shall deliver a copy of the notice to the Iowa Code editor.

Sec. 40. Section 455B.203, subsection 4, Code 2001, is amended to read as follows:

4. ~~A person confinement feeding operation~~ classified as a habitual violator ~~or a confinement feeding operation in which a habitual violator owns a controlling interest~~, as provided in section 455B.191, shall submit a manure management plan to the department on an annual basis, which must be approved by the department for the following year of operation. The manure management plan shall be a replacement original manure management plan rather than a manure management plan update. However, the habitual violator required to submit a replacement original manure management plan must submit an annual compliance fee in the same manner as if the habitual violator were submitting an updated manure management plan.

Sec. 41. Section 455B.203, subsection 7, Code 2001, is amended to read as follows:

7. A person ~~submitting~~ required to authenticate a manure management plan ~~submitted to the department~~ who is found in violation of the terms and conditions of the plan shall not be subject to an enforcement action other than ~~the~~ assessment of a civil penalty pursuant to section 455B.191 ~~455B.207~~.

Sec. 42. Section 455B.203A, subsection 6, paragraph b, Code 2001, is amended by striking the paragraph.

Sec. 43. NEW SECTION. 455B.203C COMPLIANCE FEES.

1. The department shall establish, assess, and collect all of the following compliance fees:

a. A construction permit application fee that is required to accompany an application submitted to the department for approval to construct a confinement feeding operation structure as provided in section 455B.200A. The amount of the construction permit application fee shall not exceed two hundred fifty dollars.

b. A manure management plan filing fee that is required to accompany an original manure management plan submitted to the department for approval as provided in section 455B.203. However, the manure management plan required to be filed as part of an application for a construction permit shall be paid together with the construction permit application fee. The amount of the manure management plan filing fee shall not exceed two hundred fifty dollars.

c. An annual compliance fee that is required to accompany an updated manure management plan submitted to the department for approval as provided in section 455B.203. The

¹⁴ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §257, 262 herein

amount of the annual compliance fee shall not exceed a rate of fifteen cents per animal unit based on the animal unit capacity of the confinement feeding operation covered by the manure management plan. If the person submitting the manure management plan is a contract producer, as provided in chapter 202, the active contractor shall be assessed the annual compliance fee.

d. Fees paid by persons required by the department to be certified as commercial manure applicators or confinement site manure applicators pursuant to section 455B.203A.

2. a. Except as provided in paragraph "b", fees collected by the department shall be deposited into the animal agriculture compliance fund created in section 455B.127. Moneys collected from all fees other than the annual compliance fee shall be deposited into the compliance fund's general account. Moneys collected from the annual compliance fee shall be deposited into the compliance fund's assessment account.

b. Receipts that are required to be received by the department from persons required to be certified pursuant to section 455B.203A may be used to compensate a person who teaches continuing instructional courses in lieu of deposit into the compliance fund.

3. At the end of each fiscal year the department shall determine the balance of unencumbered and unobligated moneys in the assessment account of the animal agriculture compliance fund created pursuant to section 455B.127. If on that date the balance of unencumbered and unobligated moneys in the account is one million dollars or more, the department shall adjust the rate of the annual compliance fee for the following fiscal year. The adjusted rate for the annual compliance fee shall be based on the department's estimate of the amount required to ensure that at the end of the following fiscal year the balance of unencumbered and unobligated moneys in the assessment account is not one million dollars or more.

Sec. 44. Section 455B.204, subsection 1, Code 2001, is amended by striking the subsection.

Sec. 45. Section 455B.204, subsections 2 through 4, Code 2001, are amended to read as follows:

2. Except as provided in subsection 3 ~~4~~, the following shall apply:

a. ~~An animal~~ A confinement feeding operation structure shall not be constructed closer than five hundred feet away from ~~the surface intake, or of an agricultural drainage well. A confinement feeding operation structure shall not be constructed closer than one thousand feet from a wellhead, or cistern of an agricultural drainage well, or known sinkhole. However, the department may adopt rules requiring an increased separation distance under this paragraph in order to protect the integrity of a water of this state. The increased separation distance shall not be more than two thousand feet. If the department exercises its discretion to increase the separation distance requirement, the department shall not approve an application for the construction of a confinement feeding operation structure within that separation distance as provided in section 455B.200A.~~

b. ~~An animal~~ A confinement feeding operation structure shall not be constructed if the ~~animal~~ confinement feeding operation structure as constructed is closer than any of the following:

(1) ~~Two~~ Five hundred feet away from a ~~waterecourse~~ water source other than a major water source.

(2) ~~Five hundred~~ One thousand feet away from a major water source.

(3) ~~Two thousand five hundred feet away from a designated wetland.~~

c. (1) ~~A waterecourse~~ water source, other than a major water source, shall not be constructed, expanded, or diverted, if the ~~waterecourse~~ water source as constructed, expanded, or diverted is closer than ~~two~~ five hundred feet away from ~~an animal~~ a confinement feeding operation structure.

d. (2) A major water source shall not be constructed, expanded, or diverted, if the ~~major~~ major water source as constructed, expanded, or diverted is closer than ~~five hundred~~ one thousand feet from ~~an animal feeding a confinement~~ operation structure.

(3) A designated wetland shall not be established, if the designated wetland is closer than two thousand five hundred feet away from a confinement feeding operation structure.

3. A confinement feeding operation structure shall not be constructed on land that is part of a one hundred year floodplain as designated by rules adopted by the department pursuant to section 455B.200B.

3. 4. A separation distance required in subsection 2 shall not apply to any of the following:

a. A location or object and a farm pond or privately owned lake, as defined in section 462A.2.

b. A confinement feeding operation building, an egg washwater storage structure, or a manure storage structure constructed with a secondary containment barrier. The department shall adopt rules providing for the construction and use of a secondary containment barrier, including construction design standards.

4. All distances between locations or objects shall be measured from their closest points, as provided by rules adopted by the department.

Sec. 46. Section 455B.204A, Code 2001, is amended to read as follows:

455B.204A DISPOSAL APPLICATION OF MANURE WITHIN DESIGNATED AREAS — ADOPTION OF RULES.

1. The department shall adopt rules relating to the disposal application of manure in close proximity to a designated area.

2. A Except as otherwise provided in this subsection, a person shall not dispose of apply manure on cropland land located within two hundred feet from a designated area, unless one of the following applies:

1. a. The manure is land applied by injection or incorporation within twenty-four hours following the application on the same date as the manure was land applied.

2. b. An area of permanent vegetation cover, including filter strips and riparian forest buffers, exists for fifty feet surrounding the designated area other than an unplugged agricultural drainage well or surface intake to an unplugged agricultural drainage well, and that the area of permanent vegetation cover is not subject to manure application.

c. The department adopts rules requiring an increased separation distance for the application of manure located in proximity to a high quality water resource in order to protect the integrity of the high quality water resource. However, the department shall not provide for an increased separation distance requirement that is more than four times the separation distance requirement otherwise applicable under this section.

As used in this section, “designated area” means a known sinkhole, or a cistern, abandoned well, unplugged agricultural drainage well, agricultural drainage well surface inlet, drinking water well, designated wetland, or lake, or a farm pond or privately owned lake as defined in section 462A.2 water source. However, a “designated area” does not include a terrace tile inlet.

Sec. 47. Section 455B.205, subsection 1, Code 2001, is amended to read as follows:

1. The department shall establish by rule engineering adopt rules requiring construction design standards for the construction of unformed manure storage structures required to be constructed pursuant to a construction permit issued under pursuant to section 455B.200A.

Sec. 48. Section 455B.205, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The construction design standards for unformed manure storage structures established by the department shall account for special design characteristics of animal confinement feeding operations, including all of the following:

Sec. 49. Section 455B.205, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A person shall not construct an unformed manure storage structure on karst terrain or on an area that drains into a known sinkhole.

Sec. 50. NEW SECTION. 455B.205A CONSTRUCTION DESIGN STANDARDS — FORMED MANURE STORAGE STRUCTURES.

The department shall adopt rules establishing construction design standards for formed manure storage structures that are part of confinement feeding operations other than small animal feeding operations.

1. The department may provide for different standards based on criteria developed by the department, which may include any of the following:

a. The animal unit capacity of the manure storage structure's confinement feeding operation or the manure storage structure's manure volume capacity.

b. Whether the manure storage structure stores manure in an exclusively dry form.

c. Whether the manure storage structure is part of a confinement feeding operation building.

d. The use of concrete, including its use for the structure's footings, walls, or floor.

2. The construction design standards shall be based, to every extent possible, on uniform standards such as available standards promulgated by the American society for testing and materials. The department may require that all or any part of a formed manure storage structure be constructed of concrete.

3. The construction design standards for concrete shall provide for all of the following:

a. The concrete's minimum compressive strength calculated on a pounds-per-square-inch basis.

b. The use of reinforcement, including but not limited to the grade, amount, and location of steel rebar or fiberglass, wire mesh or fabric, or similar materials set in the concrete, or the use of exterior braces to support joints.

c. The depth of footings.

d. The thickness of the footings, the floor and walls.

4. A person shall only construct a formed manure storage structure on karst terrain or an area which drains into a known sinkhole pursuant to upgraded construction design standards necessary to ensure that the structure does not pollute groundwater sources.

Sec. 51. NEW SECTION. 455B.207 CIVIL PENALTY.

A person who violates this subpart shall be subject to a civil penalty which shall be established, assessed, and collected in the same manner as provided in section 455B.191. Any civil penalty collected shall be deposited in the animal agriculture compliance fund created in section 455B.127.

Sec. 52. Section 455I.1, unnumbered paragraph 1, Code 2001, is amended by striking the unnumbered paragraph.

Sec. 53. Section 455J.1, subsections 1 through 5 and subsections 7 and 8, Code 2001, are amended by striking the subsections.

Sec. 54. Section 455J.3, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If the confinement feeding operation has an animal weight unit capacity of less than ~~six hundred twenty five thousand pounds~~ one thousand animal units, the following shall apply:

Sec. 55. Section 455J.3, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If the confinement feeding operation has an animal weight unit capacity of ~~six hundred twenty five thousand~~ one thousand or more ~~pounds~~ animal units but less than ~~one million two hundred fifty thousand pounds~~ three thousand animal units, the following shall apply:

Sec. 56. Section 455J.3, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If the confinement feeding operation has an animal ~~weight unit~~ capacity of ~~one million two hundred fifty thousand~~ three thousand or more ~~pounds~~ animal units, the following shall apply:

Sec. 57. Section 455J.4, Code 2001, is amended to read as follows:

455J.4 MANURE MANAGEMENT PLAN — INDEMNITY FEE REQUIRED.

An indemnity fee shall be assessed upon persons required to submit a an original manure management plan as provided in section 455B.203, but not required to obtain a construction permit pursuant to section 455B.200A. A person required to submit a replacement original manure management plan shall not be assessed an indemnity fee. The amount of the fees fee shall be ten cents per animal unit of capacity for the confinement feeding ~~operations~~ operation covered by the manure management plan.

Sec. 58. NEW SECTION. 481A.151 RESTITUTION FOR POLLUTION CAUSING INJURY TO WILD ANIMALS.

1. A person who is liable for polluting a water of this state in violation of state law, including this chapter, shall also be liable to pay restitution to the department for injury caused to a wild animal by the pollution. The amount of the restitution shall also include the department's administrative costs for investigating the incident. The administration of this section shall not result in a duplication of damages collected by the department under section 455B.392, subsection 1, paragraph "c".

2. The commission shall adopt rules providing for procedures for investigations and the administrative assessment of restitution amounts. The rules shall establish an opportunity to appeal a departmental action including by a contested case proceeding under chapter 17A. A final administrative decision assessing an amount of restitution may be enforced by the attorney general at the request of the director.

3. Rules adopted by the commission shall provide for methods used to determine the extent of an injury and the monetary values for the loss of injured wild animals based on species.

a. The rules shall provide for methods used to count dead fish and to calculate restitution values. The rules may incorporate methods and values published by the American fisheries society. To every extent practicable, the values shall be based on the estimates of lost recreational angler opportunities where applicable. As an alternative method of valuation, the rules may provide that for fish species that are protected by catch limits, possession limits, size limits, or closed seasons applicable to anglers, liquidated damages apply. The amount of the liquidated damages shall not exceed fifteen dollars per fish. For fish species that are classified by the commission as endangered or threatened, the rules may establish liquidated damages not to exceed one thousand dollars per fish.

b. The rules shall provide guidelines for estimating the extent of loss of a species that is affected by a pollution incident but which would not be practical to count in sample areas. The rules may establish liquidated damage amounts for species whose replacement cost is difficult to determine.

4. Moneys collected by the department in restitution shall be deposited into the state fish and game protection fund. The moneys shall be used exclusively to support restoration or improvement of fisheries, including but not limited to aquatic habitat improvement projects as provided in rules adopted by the commission. However, moneys collected from restitution paid for investigative costs shall be used as determined by the director.

Sec. 59. MANURE STORAGE INDEMNITY FUND — TEMPORARY TRANSFER. Notwithstanding section 455J.2, the department is authorized to temporarily transfer any amount of the unobligated and unencumbered balance of the manure storage indemnity fund as provided under section 455J.2 to the general account of the animal agriculture compliance fund as created in section 455B.127, as enacted in this Act, for use as provided in section 455B.127.

The department shall return the amount transferred under this section to the manure storage indemnity fund according to a schedule established by the department upon the collection of compliance fees deposited into the animal agriculture compliance fund pursuant to section 455B.203C. Notwithstanding section 455B.127, the department may return moneys from the assessment account of the animal agriculture compliance fund to the manure storage indemnity fund if at any time moneys are not sufficiently available to make the return from the general account of the animal agriculture compliance fund.

Sec. 60. FORMED MANURE STORAGE STRUCTURES — CONSTRUCTION DESIGN STANDARDS. Until the effective date of rules adopted by the department providing construction design standards for formed manure storage structures as provided in section 455B.205A, as enacted in this Act, the department's rules providing construction design standards used in the construction of formed manure storage structures shall apply to formed manure storage structures as provided in section 455B.205A, regardless of whether a formed manure storage structure must be constructed pursuant to a permit issued under section 455B.200A, as amended by this Act. However, this section does not apply to a manure storage structure that stores manure exclusively on a dry-matter basis.

Sec. 61. INTERIM APPROVAL OF CONSTRUCTION PERMITS FOR CONFINEMENT FEEDING OPERATION STRUCTURES — COUNTY PARTICIPATION AND RIGHTS OF APPLICANTS AND COUNTY BOARDS OF SUPERVISORS. This section applies to an applicant for a construction permit pursuant to section 455B.200A, as amended by this Act, and to a county board of supervisors that submits comments regarding a permit for the construction of a confinement feeding operation structure pursuant to section 455B.200A, as amended by this Act. Notwithstanding section 455B.200E, as enacted in this Act, all of the following shall apply:

1. The department shall not approve the application until thirty days following delivery of the application to the county board of supervisors.

2. The department shall consider and respond to comments submitted by the county board of supervisors regarding compliance by the applicant with the legal requirements for approving the construction permit in the same manner as provided pursuant to section 455B.200A, Code of Iowa 2001.

3. The department shall notify the county board of supervisors prior to conducting an inspection of the site on which the construction is proposed in the permit application, and the county may accompany a departmental official during the site inspection, in the same manner as provided in section 455B.200A, Code of Iowa 2001.

4. Upon written request by a county resident, the county board of supervisors shall forward a copy of the board's comments and the department's responses to the county resident as provided in chapter 22.

5. The department shall notify the applicant and county board of supervisors of the county in which a confinement feeding operation structure subject to a construction permit is proposed to be constructed. The notice shall state the department's decision to approve or disapprove an application for the construction permit which shall be delivered to the applicant and board in the same manner as provided for counties in section 455B.200A, Code of Iowa 2001. The applicant may contest the department's decision by filing a demand for a hearing before an administrative law judge or the environmental protection commission. The board may contest the department's decision by filing a demand for a hearing before the commission. The applicant shall contest the decision and the commission shall conduct the proceeding and render a decision in the same manner as provided in section 455B.200E, as enacted by this Act.

Sec. 62. ESTABLISHMENT OF A MASTER MATRIX — TECHNICAL ADVISORY COMMITTEE.

1. The department of natural resources shall adopt rules establishing a master matrix as

required pursuant to section 455B.200F according to recommendations made to the department by a technical advisory committee established pursuant to this section. The technical advisory committee shall be composed of all of the following:

- a. A designee of the secretary of agriculture.
- b. A designee of the director of the department of natural resources.
- c. A designee of the president of the university of Iowa.
- d. A designee of the president of Iowa state university.
- e. A representative of the Iowa environmental council.
- f. A representative of the Iowa state association of counties.
- g. A representative of the Iowa farm bureau federation.
- h. A representative of the Iowa's farmers union.
- i. Two representatives of organizations representing livestock producers who shall be jointly designated to the department of natural resources by the Iowa pork producers association, the Iowa cattlemens' association, the Iowa dairy products association, the Iowa poultry association, and the Iowa turkey federation.

The department of natural resources shall provide administrative support to the committee. The attorney general shall appoint an assistant attorney general to provide the committee with legal counsel and assistance.

2. In establishing the scoring system for the master matrix, only positive points shall be used. The master matrix shall be designed as a menu of items with positive points assigned to each item within the selection list. The matrix shall not include any deduction of points.

3. The department shall adopt rules pursuant to chapter 17A in order to carry out the requirements of this section. Based on the committee's recommendations to establish a master matrix, the department shall provide a draft of a notice of intended action to the environmental protection commission not later than during its September 2002 meeting. The department's notice of intended action shall not be published later than in the November 27, 2002, issue of the Iowa administrative bulletin. The notice of intended action required under this section shall include a statement of the terms or substance of the intended action in the manner provided for in section 17A.4. The rules shall take effect on March 1, 2003.

Sec. 63. DEPARTMENT OF NATURAL RESOURCES — APPROVAL OF APPLICATIONS FOR CONSTRUCTION PERMITS — USING INTERIM MATRIX.

1. Notwithstanding sections 455B.200A and 455B.200F, the department shall approve or disapprove an application for a permit to construct a confinement feeding operation structure pursuant to section 455B.200A, if an application is submitted according to procedures required by the department, the application meets standards established under chapter 455B, as amended by this Act, and the application complies with the requirements of this section. This section does not apply to the expansion of a confinement feeding operation that includes a confinement feeding operation structure constructed prior to April 1, 2002, due to the construction or expansion of a confinement feeding operation structure if after the expansion of the confinement feeding operation, its animal unit capacity is one thousand six hundred sixty-six animal units or less.

2. This section applies on and after the date that the department publishes a notice in the Iowa administrative bulletin commencing its evaluation of applications under this section.

3. The department shall approve or disapprove an application based on an interim matrix. The interim matrix shall be used to award points as provided in this subsection. In order to be issued a construction permit, a person must achieve one hundred points. The points shall be awarded as follows:

- a. The following criteria shall apply to separation distances. The separation distances provided in this paragraph shall apply in addition to separation distances required for confinement feeding operation structures or for the application of manure originating from confinement feeding operations as provided in chapter 455B, divisions II and III, as provided in the 2001 Code of Iowa, unless otherwise provided in this paragraph "a".

(1) The following criteria shall apply to require additional separation distances between a proposed confinement feeding operation structure and a residence not owned by the owner of the confinement feeding operation, a commercial enterprise, a bona fide religious institution, or an educational institution as provided in section 455B.162:

- (a) Two hundred fifty or more feet but less than five hundred feet: five points.
- (b) Five hundred or more feet but less than seven hundred fifty feet: ten points.
- (c) Seven hundred fifty or more feet but less than one thousand feet: fifteen points.
- (d) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.
- (e) One thousand two hundred fifty or more feet: twenty-five points.

(2) The following criteria shall apply to require additional separation distances between a proposed confinement feeding operation structure and a public use area as provided in section 455B.162 or a primary highway as defined in section 306C.10:

- (a) Two hundred fifty or more feet but less than five hundred feet: five points.
- (b) Five hundred or more feet but less than seven hundred fifty feet: ten points.
- (c) Seven hundred fifty or more feet but less than one thousand feet: fifteen points.
- (d) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.
- (e) One thousand two hundred fifty or more feet: twenty-five points.

(3) The following criteria shall apply to require additional separation distances between a proposed confinement feeding operation structure and a major water source as provided in section 455B.204 or a high-quality water resource as defined in section 455B.200B, as enacted in this Act:

- (a) Two hundred fifty or more feet but less than five hundred feet: five points.
- (b) Five hundred or more feet but less than seven hundred fifty feet: ten points.
- (c) Seven hundred fifty or more feet but less than one thousand feet: fifteen points.
- (d) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.
- (e) One thousand two hundred fifty or more feet: twenty-five points.

(4) The following criteria shall apply to require additional separation distances between a proposed confinement feeding operation structure and a critical public area as defined in section 455B.200B, subsection 6, as enacted by this Act:

- (a) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.
- (b) One thousand two hundred fifty or more feet: twenty-five points.

(5) The following criteria shall apply to require an additional separation distance of five hundred or more feet between a proposed confinement feeding operation structure and a watercourse, other than a major water source, as provided in section 455B.204: five points.

(6) The following criteria shall apply to require additional separation distances between the application of manure originating from a confinement feeding operation and a residence not owned by the owner of the confinement feeding operation, or a commercial enterprise, bona fide religious institution, or an educational institution as provided in section 455B.162:

- (a) Two hundred fifty or more feet but less than five hundred feet: five points.
- (b) Five hundred or more feet but less than seven hundred fifty feet: ten points.
- (c) Seven hundred fifty or more feet but less than one thousand feet: fifteen points.
- (d) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.
- (e) One thousand two hundred fifty or more feet: twenty-five points.

An applicant who incorporates manure by injection shall be entitled to the following: fifteen points.

(7) The following criteria shall apply to require an additional separation distance between the application of manure originating from a confinement feeding operation and a public use area as provided in section 455B.162 or a primary highway as defined in section 306C.10:

- (a) Two hundred fifty or more feet but less than five hundred feet: five points.
 - (b) Five hundred or more feet but less than seven hundred fifty feet: ten points.
 - (c) Seven hundred fifty or more feet but less than one thousand feet: fifteen points.
 - (d) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.
 - (e) One thousand two hundred fifty or more feet: twenty-five points.
- An applicant who incorporates manure by injection shall be entitled to the following: fifteen points.
- (8) The following criteria shall apply to require additional separation distances between the application of manure originating from a confinement feeding operation and a critical public area as defined in section 455B.200B, subsection 6, as enacted in this Act:
 - (a) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.
 - (b) One thousand two hundred fifty or more feet: twenty-five points.
 - (9) The following criteria shall apply to require additional separation distances between the application of manure originating from a confinement feeding operation and a major water source:
 - (a) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.
 - (b) One thousand two hundred fifty or more feet: twenty-five points.
 - (10) The following criteria shall apply to require additional separation distances between the application of manure originating from a confinement feeding operation and a high-quality water resource as defined in section 455B.200B, as enacted in this Act:
 - (a) Five hundred or more feet but less than seven hundred fifty feet: ten points.
 - (b) Seven hundred fifty or more feet but less than one thousand feet: fifteen points.
 - (c) One thousand or more feet but less than one thousand two hundred fifty feet: twenty points.
 - (d) One thousand two hundred fifty or more feet: twenty-five points.
 - (11) The following points shall be awarded if an additional separation distance is required for the application of manure originating from a confinement feeding operation and a water-course other than a major water source as provided in section 455B.204: five points.
 - b. The following points shall be awarded if a confinement feeding operation is located on land owned or operated by the same family for three or more years: fifteen points.
 - c. The following points shall be awarded if the owner of the confinement feeding operation owns the animals maintained by the confinement feeding operation and provides substantial labor in providing for their maintenance: ten points.
 - d. The following criteria shall apply to a confinement feeding operation located on land owned by one of the following persons:
 - (1) A person who resides on the land: five points.
 - (2) A person who closest resides to the proposed confinement feeding operation structure: ten points.
 - (3) A person who performs the majority of the physical work which significantly contributes to the operation: ten points.
 - (4) A person who is involved in making substantial improvements to the confinement feeding operation, if the improvements do not provide for expansion by more than one hundred fifty percent of the animal unit capacity of the confinement feeding operation: ten points.
 - (5) A person who qualifies as a beginning farmer as defined in section 175.2: fifteen points.
 - e. The following criteria shall apply to an owner of a confinement feeding operation who provides for the following manure management practices:
 - (1) The incorporation of manure within twenty-four hours: five points.
 - (2) The use of a cover over a manure storage structure or a natural crust or oil sprinkling: five points.

(3) Participation in the United States department of agriculture natural resource and conservation program referred to as the “filter strip program at 33 feet”: ten points.

(4) The installation of a filter designed to reduce odors from exhaust fans: ten points.

(5) The utilization of feed or feed additives containing low phytase corn or the feeding of phytase: ten points.

(6) The utilization of a biofilter or impermeable cover: ten points.

(7) The utilization of a methane digester (recovery) system for energy or an anaerobic digester: twenty-five points.

(8) The utilization of landscaping or other similar controls approved by the department: ten points.

(9) The establishment or expansion of a filter strip from thirty-three feet or more up to one hundred twenty feet: fifteen points.

(10) The construction of a secondary containment structure: fifteen points.

(11) The construction of a manure storage structure beneath a confinement feeding operation structure building: ten points.

(12) Participation in the United States department of agriculture natural resource and conservation service program referred to as the “contour buffer strip program”: twenty-five points.

f. The following points shall be awarded if the confinement feeding operation provides for the distribution of bulk dry animal nutrient products, the person receiving the product agrees that the product will be incorporated, and the person who incorporates the manure includes the condition as part of the person’s manure management plan: twenty-five points.

Sec. 64. 1995 Iowa Acts, chapter 195, section 37, as amended by 1998 Iowa Acts, chapter 1209, section 40, is repealed.

Sec. 65. INTERIM APPROVAL OF APPLICATIONS FOR CONSTRUCTION PERMITS — REPEAL. The section of this Act providing for the interim approval of applications for construction permits by the department of natural resources is repealed March 1, 2003.

Sec. 66. INTERIM COUNTY PARTICIPATION REPEAL. The section of this Act providing for interim county participation in the approval of construction permits for confinement feeding operation structures is repealed March 1, 2003, and the rights of applicants’ boards of supervisors to contest departmental decisions. However, the provisions of the section shall continue to apply to applications received by a county board of supervisors prior to March 1, 2003.¹⁵

DIVISION II
DIRECTIONS TO CODE EDITOR,
CHANGE THE NAME OF TERMS AND
TRANSFER TO NEW TITLE¹⁶

Sec. 67. CHANGE OF NAME OF TERMS.

1. The Code editor is directed to change the term “animal feeding operation structure” or “an animal feeding operation structure” to “confinement feeding operation structure” or “a confinement feeding operation structure” wherever the term appears in section 455B.161A, subsection 2, Code 2001; section 455B.162, subsection 3, Code 2001; section 455B.163, subsection 3, paragraph “d”, Code 2001; section 455B.165, subsection 3, paragraph “b”, and subsections 6 and 8, Code 2001; section 455B.200B, subsection 2, Code 2001; and section 455B.202, subsection 2, paragraphs “c” and “d”, Code 2001.

2. The Code editor is directed to change the term “animal feeding operation structures” to “confinement feeding operation structures” wherever the term appears in section 455B.161A, subsection 2, paragraph “c”, Code 2001; section 455B.200B, subsection 2, Code 2001; and section 455B.162, unnumbered paragraph 1, Code 2001.

¹⁵ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §258, 262 herein

¹⁶ New “CHAPTER” probably intended

3. The Code editor is directed to change the term “animal feeding operation” or “an animal feeding operation” to “confinement feeding operation” or “a confinement feeding operation” wherever it appears in section 455B.163, unnumbered paragraph 1, Code 2001; section 455B.163, subsection 3, paragraph “c”, Code 2001; section 455B.165, subsection 6, Code 2001; and section 455B.205, subsection 3, paragraph “b”, Code 2001.

4. The Code editor is directed to change the phrase “confinement feeding operation structure or anaerobic lagoon which is part of a confinement feeding operation” to “confinement feeding operation structure” wherever the phrase appears in section 455B.191, subsection 7, Code 2001.

5. The Code editor is directed to change the phrase “an animal feeding operation structure which is part of a confinement feeding operation” to “a confinement feeding operation structure” wherever the phrase appears in section 455B.202, subsection 2, Code 2001.

6. The Code editor is directed to change the term “bovine” to “cattle” wherever the term appears in Code section 455B.162, Code 2001.

Sec. 68. DIRECTIONS TO THE CODE EDITOR.

1. The Code editor is directed to transfer and consolidate provisions concerning animal agriculture into new chapter 456D, consistent with this section and the authority of the Code editor pursuant to chapter 2B. As part of this transfer and consolidation, the Code editor shall divide the chapters into subchapters as follows:

a. Subchapter 1 shall include a new section stating the following: This chapter shall be known and may be cited as the “Animal Agriculture Compliance Act”. Section 455B.161, as amended by this Act, shall be transferred to subchapter 1. Section 455B.171, subsections 7, 33, and 44, shall be transferred and consolidated into section 455B.161 as transferred to subchapter 1. Section 455J.1, subsections 4, 6, and 9, shall be transferred and consolidated into section 455B.161 as transferred to subchapter 1. Section 455B.200B, subsection 6, as enacted by this Act, shall be consolidated into section 455B.161 as transferred to subchapter 1. Section 455B.200, as amended by this Act, shall also be transferred to subchapter 1.

b. Chapter 455B, division II, part 2, including sections amended or enacted by this Act, with the exception of section 455B.164, shall be transferred to new chapter 456D, as subchapter 2.

c. Chapter 455B, division III, part 1, subpart A,¹⁷ as enacted in this Act, with the exception of section 455B.200, as amended by this Act, and section 455B.207, as enacted by this Act, shall be transferred to new chapter 456D, as subchapter 3.

d. Sections 455B.125 through 455B.127, as enacted by this Act, shall be transferred to new chapter 456D, as subchapter 4.

e. Chapter 455J, with the exception of section 455J.1, shall be transferred to new chapter 456D, as subchapter 5.

f. Section 455B.110, as amended by this Act, is transferred to new chapter 456D, as subchapter 6. Sections 455B.167, and 455B.207, as enacted by this Act; section 455B.191, subsection 7, Code 2001, and section 455B.191, subsection 8, as amended by this Act; and section 455B.104, subsection 2, are transferred as new sections to new subchapter 6.

2. The Code editor is directed to transfer chapter 455I to new chapter 456C. Subchapter 1 shall include section 455I.1, subsections 1 through 4 and 6 through 13, Code 2001. Subchapter 2 shall include a new section stating the following: As used in this subchapter, unless the context otherwise requires, “department” means the department of natural resources. Subchapter 2 shall include sections 455I.2 through 455I.7. Subchapter 3 shall include a new section stating the following: As used in this subchapter, unless the context otherwise requires, “department” means the department of agriculture and land stewardship. The Code editor is directed to transfer sections 159.28 through 159.29B, Code 2001, to new chapter 456C, subchapter 3.¹⁸

Sec. 69. Section 455B.164, Code 2001, is repealed.

¹⁷ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §259, 262 herein

¹⁸ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §260, 262 herein

DIVISION III
RETROACTIVE APPLICABILITY AND EFFECTIVE DATES

Sec. 70. RETROACTIVE APPLICATION.

1. If the provisions of this Act would apply to require that a person must be issued a construction permit as provided in section 455B.200A, as amended by this Act, upon the enactment of this Act, for the construction of a confinement feeding operation structure, the requirements of section 455B.200A, as amended by this Act, shall apply retroactively as provided in this section. The provisions of this Act shall apply retroactively only if all of the following are satisfied:

a. An application for a permit to construct the confinement feeding operation structure was submitted to the department on or after April 1, 2002, but prior to the enactment of this Act, regardless of whether the department has approved the application; a manure management plan was submitted to the department without a construction permit as provided in 567 IAC 65.16(2) on or after April 1, 2002, but prior to the enactment of this Act regardless of whether the department has approved the manure management plan; or construction of a confinement feeding operation structure has not begun upon the enactment of this Act and the person would otherwise be required to submit a manure management plan prior to the construction of the confinement feeding operation structure as provided in section 455B.203, as amended in this Act.

b. The department has not received evidence that an applicant or person submitting or required to submit a manure management plan as provided in subsection 2, has incurred commitments based on a reliance of the law as the law existed on March 31, 2002. The commitments must constitute a legal obligation for performance by the person to construct a confinement feeding operation structure. The applicant or other person required to submit the evidence to the department must submit such evidence not later than twenty-one days after the effective date of this Act.¹⁹

2. This Act shall not apply retroactively other than as provided in this section. The department shall approve or disapprove a pending construction permit application or manure management plan not subject to subsection 1 and a person may construct a confinement feeding operation structure according to the applicable requirements of the 2001 Code of Iowa and rules adopted by the department and in effect on March 31, 2002.

3. Until March 1, 2003, the department shall use the interim matrix as provided in this Act in lieu of the master matrix required to be used pursuant to section 455B.200E.

Sec. 71. EFFECTIVE DATES.

1. Except as provided in subsections 2 and 3, this Act, being deemed of immediate importance, takes effect upon enactment.

2. The sections of this Act amending sections 455B.162, 455B.163, 455B.204, and 455B.204A, take effect on March 1, 2003. Sections 455B.200C and 455B.200E, as enacted in this Act, take effect on March 1, 2003. The provisions of section 455B.205A, as enacted by this Act, as the provisions apply to confinement feeding operations storing manure exclusively on a dry matter basis, take effect upon the effective date of rules adopted to implement section 455B.205A.

3. Notwithstanding section 455B.203, as amended by this Act, a person shall not be required to submit a manure management plan update earlier than March 1, 2003. The department shall adopt rules necessary to administer this Act including these sections on and after the enactment of this Act.

Approved April 29, 2002

¹⁹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §261, 262 herein

CHAPTER 1138

OPEN FEEDLOTS

S.F. 503

AN ACT relating to open feedlots, by providing for standards of construction for pollution control structures.

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

Section 1. Section 455B.161, subsection 2, paragraph b, Code 2001, is amended to read as follows:

b. ~~A runoff control settled open feedlot effluent basin which that~~ collects and stores only precipitation-induced runoff from an animal feeding operation in which animals are confined to areas which are unroofed or partially roofed and in which no crop, vegetation, or forage growth or residue cover is maintained during the period in which animals are confined in the operation an open feedlot.

Sec. 2. Section 455B.161, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 18A. "Open feedlot" means an unroofed or partially roofed animal feeding operation if crop, vegetation, or forage growth or residue cover is not maintained as part of the animal feeding operation during the period that animals are confined in the animal feeding operation.

Sec. 3. Section 455B.171, Code 2001, is amended by adding the following new subsections:
NEW SUBSECTION. 23A. "Open feedlot" means the same as defined in section 455B.161.
NEW SUBSECTION. 38A. "Settled open feedlot effluent" means a combination of manure, precipitation-induced runoff, or other runoff originating from an open feedlot after its settleable solids have been removed.

NEW SUBSECTION. 38B. "Settled open feedlot effluent basin" or "basin" means an impoundment which is part of an open feedlot, if the primary function of the impoundment is to collect and store settled open feedlot effluent.

Sec. 4. NEW SECTION. 455B.205A CONSTRUCTION DESIGN STANDARDS — SETTLED OPEN FEEDLOT EFFLUENT BASINS.

If the department requires that a settled open feedlot effluent basin be constructed according to design standards, regardless of whether the department requires the owner to be issued a construction permit under section 455B.200, any design standards for the basin shall be established by rule as provided in chapter 17A that exclusively account for special design characteristics of open feedlots and related basins, including but not limited to the dilute composition of settled open feedlot effluent as collected and stored in the basins.

Sec. 5. DIRECTIONS TO CODE EDITOR. The Code editor shall transfer provisions of this Act amending Code chapter 455B to a new chapter in conformance with sections transferred pursuant to Senate File 2293²⁰ or House File 2468,²¹ if enacted by the Seventy-ninth General Assembly, 2002 Session.

Approved April 30, 2002

²⁰ Chapter 1137 herein

²¹ Not enacted

CHAPTER 1139**SEXUALLY VIOLENT PREDATORS — CIVIL COMMITMENT**

S.F. 2286

AN ACT relating to the civil commitment of sexually violent predators, and providing an effective date.

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

Section 1. Section 229A.1, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The general assembly further finds that the prognosis for rehabilitating sexually violent predators in a prison setting is poor, because the treatment needs of this population are very long-term, and the treatment modalities for this population are very different from the traditional treatment modalities available in a prison setting or for persons appropriate for commitment under chapter 229. Therefore, the general assembly finds that a civil commitment procedure for the long-term care and treatment of the sexually violent predator is necessary. The procedures regarding sexually violent predators should reflect legitimate public safety concerns, while providing treatment services designed to benefit sexually violent predators who are civilly committed. The procedures should also reflect the need to protect the public, to respect the needs of the victims of sexually violent offenses, and to encourage full meaningful participation of sexually violent predators in treatment programs.

Sec. 2. Section 229A.2, Code 2001, is amended by adding the following new subsections:
NEW SUBSECTION. 2A. “Discharge” means an unconditional discharge from the sexually violent predator program. A person released from a secure facility into a transitional release program or released with or without supervision is not considered to be discharged.

NEW SUBSECTION. 6A. “Safekeeper” means a person who is confined in an appropriate secure facility pursuant to this chapter but who is not subject to an order of commitment pursuant to this chapter.

NEW SUBSECTION. 10. “Transitional release” means a conditional release from a secure facility operated by the department of human services with the conditions of such release set by the court or the department of human services.

Sec. 3. Section 229A.5, subsection 3, Code 2001, is amended to read as follows:

3. At the hearing, the rules of evidence do not apply, and the state may rely solely upon the petition filed under subsection 1, but the state may also supplement the petition with additional documentary evidence or live testimony.

Sec. 4. Section 229A.5B, Code Supplement 2001, is amended to read as follows:

229A.5B ESCAPE FROM CUSTODY.

1. A respondent person who is in custody detained pursuant to section 229A.5 or is subject to an order of civil commitment under this chapter shall remain in custody unless released by court order or discharged under section 229A.8 or 229A.10. A person who has been placed in a transitional release program or who is under release with or without supervision is considered to be in custody. A respondent person 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 or leave or attempt to leave a facility without authorization.

b. Knowingly and voluntarily be absent from a place where the respondent person is required to be present.

c. Leave or attempt to leave the custody of personnel transporting or guarding the respondent person while the respondent person is away from a facility.

2. A respondent person 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 person 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 person is unconfined and may provide relevant information about the respondent person to the community. The attorney general may also notify a victim or the family of a victim of the respondent person that the respondent person 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~~ other lawful means for the return of the person.

Sec. 5. NEW SECTION. 229A.5C CRIMINAL OFFENSES COMMITTED WHILE DETAINED OR SUBJECT TO AN ORDER OF COMMITMENT.

1. If a person who is detained pursuant to section 229A.5 or who is subject to an order of civil commitment under this chapter commits a public offense, the civil commitment proceedings or treatment process shall be suspended until the criminal proceedings, including any term of confinement, are completed. The person shall also not be eligible for bail pursuant to section 811.1.

2. Upon the filing of a complaint, indictment, or information, the person shall be transferred to the county jail in the county where the public offense occurred until the criminal proceedings have been completed. If the person is sentenced to a term of confinement in a county jail, the person shall serve the sentence at the county jail. If the person is sentenced to the custody of the director of the department of corrections, the person shall serve the sentence at a correctional institution.

3. A person who is subject to an order of civil commitment under this chapter shall not be released from jail or paroled or released to a facility or program located outside the county jail or correctional institution other than to a secure facility operated by the department of human services.

4. A person who committed a public offense while in a transitional release program or on release with or without supervision may be returned to a secure facility operated by the department of human services upon completion of any term of confinement that resulted from the commission of the public offense.

5. If the civil commitment proceedings for a person are suspended due to the commission of a public offense by the person, the ninety-day trial demand lapses. Upon completion of any term of confinement that resulted from the commission of the public offense, a new ninety-day trial demand automatically begins.

Sec. 6. NEW SECTION. 229A.5D MEDICAL TREATMENT.

A safekeeper is entitled to necessary medical treatment.

Sec. 7. NEW SECTION. 229A.6A TRANSPORT ORDERS.

1. A person who has been detained prior to trial pursuant to section 229A.5 or who has been civilly committed may be transported for the following purposes:

a. To trial and any other court proceedings if the court has authorized a transport order. A transport order may only be requested by the court, the person's attorney, or the attorney general. Transportation shall be provided by the sheriff of the county in which the action has been brought, unless the court specifies otherwise or the parties agree to a different transportation arrangement. If a transport order is not authorized, the person may appear at any court proceedings other than trial by telephone or electronic means.

b. To a medical facility for medical treatment, if necessary medical treatment is not available at the facility where the person is confined. A transport order is not required to transport

the person for medical treatment. However, the person is not entitled to choose the medical facility where treatment is to be obtained or the medical personnel to provide the treatment. Transportation of a committed person shall be provided by the sheriff of the county in which the person is confined if requested by the department of human services.

c. To a medical, psychological, or psychiatric evaluation. A person shall not be transported to another facility for evaluation without a court order. When a transportation order is requested under this paragraph, notice must be provided to the opposing party, and the opposing party must be given a reasonable amount of time to object to the issuance of such an order. The cost of the transportation shall be paid by the party who requests the order.

d. To a facility for placement or treatment in a transitional release program or for release with or without supervision. A transport order is not required under this paragraph.

2. This section shall not be construed to grant a person the right to personally appear at all court proceedings under this chapter.

Sec. 8. Section 229A.7, subsection 2, Code 2001, is amended to read as follows:

2. Within ninety days after either the entry of the order waiving the probable cause hearing or completion of the probable cause hearing held under section 229A.5, the court shall conduct a trial to determine whether the respondent is a sexually violent predator. The respondent or the attorney for the respondent may waive the ninety-day trial requirement as provided in this section; however, the respondent or the attorney for the respondent may reassert a demand and the trial shall be held within ninety days from the date of filing the demand with the clerk of court. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced. In determining what constitutes good cause, the court shall consider the length of the pretrial detention of the respondent.

2A. The respondent, the attorney general, or the judge shall have the right to demand that the trial be before a jury. Such demand for the trial to be before a jury shall be filed, in writing, at least ten days prior to trial. The number and selection of jurors shall be determined as provided in chapter 607A. If no demand is made, the trial shall be before the court. Except as otherwise provided, the Iowa rules of evidence and the Iowa rules of civil procedure shall apply to all civil commitment proceedings initiated pursuant to this chapter.

Sec. 9. Section 229A.7, subsections 3, 4, and 5, Code 2001, are amended to read as follows:

3. At trial, the court or jury shall determine whether, beyond a reasonable doubt, the respondent is a sexually violent predator. If the determination that the respondent is a sexually violent predator is made by a jury, the determination case is before a jury, the verdict shall be by unanimous verdict of such jury that the respondent is a sexually violent predator.

If the court or jury determines that the respondent is a sexually violent predator, the respondent shall be committed to the custody of the director of the department of human services for control, care, and treatment until such time as the person's mental abnormality has so changed that the person is safe to be at large placed in a transitional release program or discharged. The determination may be appealed.

4. The control, care, and treatment of a person determined to be a sexually violent predator shall be provided at a facility operated by the department of human services. At all times prior to placement in a transitional release program or release with or without supervision, persons committed for control, care, and treatment by the department of human services pursuant to this chapter shall be kept in a secure facility and those patients shall be segregated at all times from any other patient under the supervision of the department of human services. A person committed pursuant to this chapter to the custody of the department of human services may be kept in a facility or building separate from any other patient under the supervision of the department of human services. The department of human services may enter into a chapter 28E agreement with the department of corrections or other appropriate agency in this state or another state for the confinement of patients who have been determined to be sexually violent predators. Patients who are in the confinement custody of the director of the department

of corrections pursuant to a chapter 28E agreement and who have not been placed in a transitional release program or released with or without supervision shall be housed and managed separately from criminal offenders in the custody of the director of the department of corrections, and except for occasional instances of supervised incidental contact, shall be segregated from those offenders.

5. If the court makes the determination or the jury is not satisfied beyond a reasonable doubt determines that the respondent is not a sexually violent predator, the court shall direct the respondent's release. Upon release, the respondent shall comply with any requirements to register as a sex offender as provided in chapter 692A. Upon a mistrial, the court shall direct that the respondent be held at an appropriate secure facility until another trial is conducted. Any subsequent trial following a mistrial shall be held within ninety days of the previous trial, unless such subsequent trial is continued or the ninety days are waived as provided in subsection 2.

Sec. 10. Section 229A.8, Code 2001, is amended to read as follows:

229A.8 ANNUAL EXAMINATIONS, AND REVIEW — DISCHARGE OR TRANSITIONAL RELEASE PETITIONS BY PERSONS COMMITTED.

1. Upon civil commitment of a person pursuant to this chapter, a rebuttable presumption exists that the commitment should continue. The presumption may be rebutted when facts exist to warrant a hearing to determine whether a committed person no longer suffers from a mental abnormality which makes the person likely to engage in predatory acts constituting sexually violent offenses if discharged, or the committed person is suitable for placement in a transitional release program.

2. Each ~~1.~~ A person committed under this chapter shall have a current examination of the person's mental abnormality made once every year. The person may retain, or if the person is indigent and so requests, the court may appoint a qualified expert or professional person to examine such person, and such expert or professional person shall be given access to all records concerning the person.

3. ~~2.~~ The annual report shall be provided to the court that committed the person under this chapter. The court shall conduct an annual review and ~~probable cause, if warranted, set a final hearing on the status of the committed person.~~ The annual review may be based only on written records.

4. ~~3.~~ Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for discharge or placement in a transitional release program at the ~~probable cause hearing~~ annual review. The director of human services shall provide the committed person with an annual written notice of the person's right to petition the court for discharge ~~over the director's objection or placement in a transitional release program without authorization from the director.~~ The notice shall contain a waiver of rights. The director shall forward the notice and waiver form to the court with the annual report.

5. The following provisions apply to an annual review:

a. The committed person shall have a right to have an attorney represent the person at the ~~probable cause hearing~~ but the person is not entitled to be present at the hearing, ~~if a hearing is held.~~ If the court at the hearing determines that probable cause exists to believe that the person's

b. The Iowa rules of evidence do not apply.

c. The committed person may waive an annual review or may stipulate that the commitment should continue for another year.

d. The court shall review the annual report of the state and the report of any qualified expert or professional person retained by or appointed for the committed person and may receive arguments from the attorney general and the attorney for the committed person if either requests a hearing. The request for a hearing must be in writing, within thirty days of the notice of annual review being provided to counsel for the committed person, or on motion by the court. Such a hearing may be conducted in writing without any attorneys present.

e. The burden is on the committed person to show by a preponderance of the evidence that

there is competent evidence which would lead a reasonable person to believe a final hearing should be held to determine either of the following:

(1) The mental abnormality of the committed person has so changed that the person is safe to be at large and will not likely to engage in predatory acts or constituting sexually violent offenses if discharged, then the court shall set a final hearing on the issue.

(2) The committed person is suitable for placement in a transitional release program pursuant to section 229A.8A.

If the committed person shows by a preponderance of the evidence that a final hearing should be held on either determination under subparagraph (1) or (2), or both, the court shall set a final hearing within sixty days of the determination that a final hearing be held.

f. If at the time for the annual review the committed person has filed a petition for discharge or placement in a transitional release program with authorization from the director of human services, the court shall set a final hearing within ninety days of the authorization by the director, and no annual review shall be held.

g. If the committed person has not filed a petition, or has filed a petition for discharge or for placement in a transitional release program without authorization from the director of human services, the court shall first conduct the annual review as provided in this subsection.

h. Any petition can summarily be dismissed by the court as provided in section 229A.11.

i. If at the time of the annual review the committed person is in a secure facility and not in the transitional release program, the state shall have the right to demand that both determinations in paragraph "e" be submitted to the court or jury.

5. ~~6.~~ At the final hearing, the following provisions shall apply to a final hearing:

a. The committed person shall be entitled to be present ~~an attorney~~ and is entitled to the benefit of all constitutional protections that were afforded the person at the original commitment proceeding. The attorney general shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state ~~committed person shall be entitled to a jury trial, if such a demand is made in writing and filed with the clerk of court at least ten days prior to the final hearing.~~

b. The committed person shall also have the right to have experts evaluate the person on the person's behalf. The court shall appoint an expert if the person is indigent and requests an appointment.

c. The attorney general shall represent the state and shall have a right to demand a jury trial. The jury demand shall be filed, in writing, at least ten days prior to the final hearing.

d. The burden of proof at the final hearing shall be upon the state to prove beyond a reasonable doubt that the either of the following:

(1) The committed person's mental abnormality or personality disorder remains such that the person is not safe to be at large and if discharged is likely to engage in acts of sexual violence predatory acts that constitute sexually violent offenses if discharged.

(2) The committed person is not suitable for placement in a transitional release program pursuant to section 229A.8A.

e. If the director of human services has authorized the committed person to petition for discharge or for placement in a transitional release program and the case is before a jury, testimony by a victim of a prior sexually violent offense committed by the person is not admissible. If the director has not authorized the petition or the case is before the court, testimony by a victim of a sexually violent offense committed by the person may be admitted.

f. If a mistrial is declared, the confinement or placement status of the committed person shall not change. After a mistrial has been declared, a new trial must be held within ninety days of the mistrial.

7. The state and the committed person may stipulate to a transfer to a transitional release program if the court approves the stipulation.

Sec. 11. NEW SECTION. 229A.8A TRANSITIONAL RELEASE.

1. The department of human services is authorized to establish a transitional release pro-

gram and provide control, care, and treatment, and supervision of committed persons placed in such a program.

2. A committed person is suitable for placement in the transitional release program if the court finds that all of the following apply:

a. The committed person's mental abnormality is no longer such that the person is a high risk to reoffend.

b. The committed person has achieved and demonstrated significant insights into the person's sex offending cycle.

c. The committed person has accepted responsibility for past behavior and understands the impact sexually violent crimes have upon a victim.

d. A detailed relapse prevention plan has been developed and accepted by the treatment provider which is appropriate for the committed person's mental abnormality and sex offending history.

e. No major discipline reports have been issued for the committed person for a period of six months.

f. The committed person is not likely to escape or attempt to escape custody pursuant to section 229A.5B.

g. The committed person is not likely to commit acts constituting sexually violent offenses while in the program.

h. The placement is in the best interest of the committed person.

i. The committed person has demonstrated a willingness to agree to and abide by all rules of the program.

3. If the committed person does not agree to the conditions of release, the person is not eligible for the transitional release program.

4. For purposes of registering as a sex offender under chapter 692A, a person placed in the transitional release program shall be classified a "high-risk" sex offender and public notification shall be as provided in section 692A.13A, subsection 2. A committed person who refuses to register as a sex offender is not eligible for placement in a transitional release program.

5. Committed persons in the transitional release program are not necessarily required to be segregated from other persons.

6. The department of human services shall be responsible for establishing and implementing the rules and directives regarding the location of the transitional release program, staffing needs, restrictions on confinement and the movement of committed persons, and for assessing the progress of committed persons in the program. The court may also impose conditions on a committed person placed in the program.

7. The department of human services may contract with other government or private agencies, including the department of corrections, to implement and administer the transitional release program.

Sec. 12. NEW SECTION. 229A.8B VIOLATIONS OF TRANSITIONAL RELEASE.

1. The treatment staff in a transitional release program may remove the committed person from the program for a violation of any rule or directive, and return the person to a secure facility. The treatment staff may request the district court to issue an emergency ex parte order directing any law enforcement officer to take the committed person into custody so that the person can be returned to a secure facility. The request for an ex parte order may be made orally or by telephone, but the original written request or a facsimile copy of the original request shall be filed with the clerk of court no later than four-thirty p.m. on the next business day the office of the clerk of court is open.

2. If a committed person absconds from a transitional release program in violation of the rules or directives, a presumption arises that the person poses a risk to public safety. The department of human services, in cooperation with local law enforcement agencies, may make a public announcement about the absconder. The public announcement may include a description of the committed person, that the person is in transitional release from the sexually violent predator program, and any other information important to public safety.

3. Upon the return of the committed person to a secure facility, the director of human services or the director's designee shall notify the court that issued the ex parte order that the absconder has been returned to a secure facility, and the court shall set a hearing within five days to determine if a violation occurred. If a court order was not issued, the director or the director's designee shall contact the nearest district court with jurisdiction to set a hearing to determine whether a violation of the rules or directives occurred. The court shall schedule a hearing within five days of receiving notice that the committed person has been returned from the transitional release program to a secure facility.

4. At the hearing the burden shall be upon the attorney general to show by a preponderance of the evidence that a violation of the rules or directives occurred. The hearing shall be to the court.

5. If the court determines a violation occurred, the court shall either order the committed person to be returned to the transitional release program or to be confined in a secure facility. The court may impose further conditions upon the committed person if returned to the transitional release program. If the court determines no violation occurred, the committed person shall be returned to the transitional release program.

Sec. 13. NEW SECTION. 229A.9A RELEASE WITH OR WITHOUT SUPERVISION.

1. In any proceeding under section 229A.8, the court may order the committed person released with or without supervision if any of the following apply:

a. The attorney general stipulates to the release with or without supervision.

b. The court or jury has determined that the person should be discharged from the program, but the court has determined it is in the best interest of the community to order release with or without supervision before the committed person is discharged.

2. If release with or without supervision is ordered, the department of human services shall prepare within thirty days of the order of the court a release plan addressing the person's needs for counseling, medication, community support services, residential services, vocational services, alcohol or other drug abuse treatment, sex offender treatment, or any other treatment or supervision necessary.

3. The court shall set a hearing on the release plan prepared by the department of human services before the committed person is released from a secure facility or a transitional release program.

4. If the court orders release with supervision, the court shall order supervision by an agency with jurisdiction that is familiar with the placement of criminal offenders in the community. The agency with jurisdiction shall be responsible for initiating proceedings for violations of the release plan as provided in section 229A.9B. If the court orders release without supervision, the agency with jurisdiction shall also be responsible for initiating proceedings for any violations of the release plan as provided in section 229A.9B.

5. A committed person may not petition the court for release with or without supervision.

6. A committed person released with or without supervision is not considered discharged from civil commitment under this chapter.

7. After being released with or without supervision, the person may petition the court for discharge as provided in section 229A.8.

8. The court shall retain jurisdiction over the committed person who has been released with or without supervision until the person is discharged from the program. The department of human services shall not be held liable for any acts committed by a committed person who has been ordered released with or without supervision.

Sec. 14. NEW SECTION. 229A.9B VIOLATIONS OF RELEASE WITH OR WITHOUT SUPERVISION.

1. If a committed person violates the release plan, the agency with jurisdiction over the person may request the district court to issue an emergency ex parte order directing any law enforcement officer to take the person into custody so that the person can be returned to a secure facility. The request for an ex parte order may be made orally or by telephone, but the original

written request or a facsimile copy of the request shall be filed with the clerk of court no later than four-thirty p.m. on the next business day the office of the clerk of court is open.

2. If a committed person has absconded in violation of the conditions of the person's release plan, a presumption arises that the person poses a risk to public safety. The department of human services or contracting agency, in cooperation with local law enforcement agencies, may make a public announcement about the absconder. The public announcement may include a description of the committed person, that the committed person is on release with or without supervision from the sexually violent predator program, and any other information pertinent to public safety.

3. Upon the return of the committed person to a secure facility, the director of human services or the director's designee shall notify the court that issued the ex parte order that the committed person has been returned to a secure facility, and the court shall set hearing within five days to determine if a violation occurred. If a court order was not issued, the director or the director's designee shall contact the nearest district court with jurisdiction to set a hearing to determine whether a violation of the conditions of the release plan occurred. The court shall schedule a hearing within five days of receiving notice that the committed person has been returned to a secure facility.

4. At the hearing the burden shall be upon the attorney general to show by a preponderance of the evidence that a violation of the release plan occurred.

5. If the court determines a violation occurred, the court shall receive release recommendations from the department of human services and either order that the committed person be returned to release with or without supervision or placed in a transitional release program, or be confined in a secure facility. The court may impose further conditions upon the committed person if returned to release with or without supervision or placed in the transitional release program. If the court determines no violation occurred, the committed person shall be returned to release with or without supervision.

Sec. 15. Section 229A.10, Code 2001, is amended to read as follows:

229A.10 PETITION FOR DISCHARGE — PROCEDURE.

1. If the director of human services determines that the person's mental abnormality has so changed that the person is not likely to commit predatory acts or sexually violent offenses if discharged, the director shall authorize the person to petition the court for discharge. The petition shall be served upon the court and the attorney general. The court, upon receipt of the petition for discharge, shall order a hearing within thirty days. The attorney general shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the attorney general's choice. The hearing shall be before a jury if demanded by either the petitioner or the attorney general. ~~The~~ If the attorney general objects to the petition for discharge, the burden of proof shall be upon the attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is ~~not safe to be at large and that if discharged is likely to commit en-~~ gage in predatory acts ~~or sexually violent~~ that constitute sexually violent offenses ~~if discharged.~~

2. Upon a finding that the state has failed to meet its burden of proof under this section, ~~or a stipulation by the state,~~ the court shall authorize the release of the committed person to be discharged. ~~Release may be ordered with or without supervision. If supervised release is ordered, the department of human services shall prepare a plan addressing the person's needs for counseling, medication, community support services, residential services, vocational services, alcohol and other drug abuse treatment, and any other treatment or supervision necessary. If the court orders the release of the committed person with supervision, the court shall order supervision by an agency with jurisdiction that is familiar with the placement of criminal offenders in the community.~~

Sec. 16. Section 229A.11, Code 2001, is amended to read as follows:

229A.11 SUBSEQUENT DISCHARGE PETITIONS, — LIMITATIONS.

Nothing in this chapter shall prohibit a person from filing a petition for discharge or place-

ment in a transitional release program, pursuant to this chapter. However, if a person has previously filed a petition for discharge or for placement in a transitional release program without the authorization of the director of human services, and the court determines either upon review of the petition or following a hearing that the petition was frivolous or that the petitioner's condition had not so changed that the person was safe to be at large not likely to engage in predatory acts constituting sexually violent offenses if discharged, or was not suitable for placement in the transitional release program, then the court shall summarily deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the petitioner had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from a committed person without the director's authorization, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds. If the court determines that a petition is frivolous, the court shall ~~deny~~ dismiss the petition without a hearing.

Sec. 17. Section 229A.12, Code 2001, is amended to read as follows:

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

The director of human services shall be responsible for all costs relating to the evaluation, treatment, and services provided to ~~persons~~ a person that are incurred after the person is committed to the director's custody after the court or jury determines that the respondent is a sexually violent predator and pursuant to commitment under any provision of this chapter. If placement in a transitional release program or supervision is ordered pursuant to section 229A.10, the director shall also be responsible for all costs related to the transitional release program or to the supervision and treatment of any person. Reimbursement may be obtained by the director from the patient and any person legally liable or bound by contract for the support of the patient for the cost of confinement, or of care and treatment provided. As used in this section, "any person legally liable" does not include a political subdivision.

Sec. 18. NEW SECTION. 229A.12A DIRECTOR OF THE DEPARTMENT OF CORRECTIONS — RESPONSIBILITY FOR SAFEKEEPER.

The director of the department of corrections shall have authority, once a person is detained pursuant to section 229A.5, to make a determination as to the appropriate secure facility within the department of corrections in which the safekeeper is to be placed, taking into consideration the safekeeper's medical needs and ability to interact with offenders who have been committed to the custody of the director of the department of corrections. The director has authority to determine the safekeeper's degree of segregation from offenders, including whether total segregation is appropriate under the circumstances or whether the safekeeper should be permitted to participate in normal confinement activities in the presence of offenders.

Sec. 19. Section 229A.14, Code 2001, is amended to read as follows:

229A.14 RELEASE OF CONFIDENTIAL OR PRIVILEGED INFORMATION AND RECORDS.

Notwithstanding ~~anything in chapter 22 to the contrary,~~ any provision in the Code regarding confidentiality to the contrary, any relevant information and records which would otherwise be confidential or privileged, except information subject to attorney-client privilege and attorney work product, shall be released to the agency with jurisdiction or the attorney general for the purpose of meeting the notice requirement provided in section 229A.3 and determining whether a person is or continues to be a sexually violent predator.

Sec. 20. NEW SECTION. 229A.15A CIVIL PROTECTIVE ORDER.

A victim of a crime that was committed before the filing of a petition under this chapter by a safekeeper or by a person subjected to an order of civil commitment pursuant to this chapter, may obtain a protective order against the safekeeper or person using the procedures set out in section 915.22.

Sec. 21. NEW SECTION. 229A.15B RULEMAKING AUTHORITY.

The department of human services shall adopt rules pursuant to chapter 17A necessary to administer this chapter.

Sec. 22. Section 811.1, subsections 1 and 2, Code 2001, are amended to read as follows:

1. A defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of a class "A" felony, murder, any class "B" felony included in section 462A.14 or 707.6A; felonious assault; felonious child endangerment; sexual abuse in the second degree; sexual abuse in the third degree; kidnapping; robbery in the first degree; arson in the first degree; burglary in the first degree; any felony included in section 124.401, subsection 1, paragraph "a" or "b"; or a second or subsequent offense under section 124.401, subsection 1, paragraph "c"; ~~or any felony punishable under section 902.9, subsection 1; any public offense committed while detained pursuant to section 229A.5; or any public offense committed while subject to an order of commitment pursuant to chapter 229A.~~

2. A defendant appealing a conviction of a class "A" felony; murder; any class "B" or "C" felony included in section 462A.14 or 707.6A; felonious assault; felonious child endangerment; sexual abuse in the second degree; sexual abuse in the third degree; kidnapping; robbery in the first degree; arson in the first degree; burglary in the first degree; any felony included in section 124.401, subsection 1, paragraph "a" or "b"; or a second or subsequent conviction under section 124.401, subsection 1, paragraph "c"; ~~or any felony punishable under section 902.9, subsection 1; any public offense committed while detained pursuant to section 229A.5; or any public offense committed while subject to an order of commitment pursuant to chapter 229A.~~

Sec. 23. Section 901A.1, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. As used in this chapter, the term "sexually violent offense" means the same as defined in section 229A.2.

Sec. 24. Section 901A.2, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. A person who has been placed in a transitional release program, released with or without supervision, or discharged pursuant to chapter 229A, and who is subsequently convicted of a sexually predatory offense or a sexually violent offense, shall be sentenced to life in prison on the same terms as a class "A" felon under section 902.1, notwithstanding any other provision of the Code to the contrary. The terms and conditions applicable to sentences for class "A" felons under chapters 901 through 909 shall apply to persons sentenced under this subsection. However, if the person commits a sexually violent offense which is a misdemeanor offense under chapter 709, the person shall be sentenced to life in prison, with eligibility for parole as provided in chapter 906.

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

Sec. 26. DIRECTIVE TO CODE EDITOR. The Code editor is directed to renumber sections in chapter 229A and correct internal references as necessary in conjunction with the enactment of this Act.

Sec. 27. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 30, 2002

CHAPTER 1140

EDUCATION — ADMINISTRATION, FUNDING, PROGRAMMING, AND SERVICES

H.F. 2515

AN ACT relating to the duties and operation of the department of education and school boards and providing effective and applicability dates.

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

Section 1. Section 256.3, Code 2001, is amended to read as follows:

256.3 STATE BOARD ESTABLISHED.

The state board of education is established for the department. The state board consists of nine ten members, nine voting members and one nonvoting student member. The voting members shall be appointed by the governor subject to senate confirmation. The nonvoting student members¹ shall be appointed as provided in section 256.5A. The voting members shall be registered voters of the state and hold no other elective or appointive state office. A voting member shall not be engaged in professional education for a major portion of the member's time nor shall the member derive a major portion of income from any business or activity connected with education. Not more than five voting members shall be of the same political party.

The terms of office for voting members are for six years beginning and ending as provided in section 69.19.

Three of the ~~state board~~ voting members shall have substantial knowledge related to the community college system. The remaining six voting members shall be members of the general public.

Sec. 2. Section 256.4, Code 2001, is amended to read as follows:

256.4 OATH — VACANCIES.

The members of the state board shall qualify by taking the regular oath of office as prescribed by law for state officers. Vacancies in the voting membership shall be filled in the same manner in which regular appointments are required to be made.

Sec. 3. NEW SECTION. 256.5A NONVOTING MEMBER.

The governor shall appoint one nonvoting student member of the state board for a term of one year beginning and ending as provided in section 69.19. The nonvoting student member shall be appointed from a list of names submitted by the state board of education. Students enrolled in either grade ten or eleven in a public school may apply to the state board to serve as a nonvoting student member. The department shall develop an application process that requires the consent of the student's parent or guardian if the student is a minor, initial application approval by the school district in which the student applicant is enrolled, and submission of approved applications by a school district to the department. The nonvoting student member's school district of enrollment shall notify the student's parents if the student's grade point average falls during the period in which the student is a member of the state board. The state board shall adopt rules under chapter 17A specifying criteria for the selection of applicants whose names shall be submitted to the governor. Criteria shall include, but is² not limited to, academic excellence, participation in extracurricular and community activities, and interest in serving on the board. Rules adopted by the state board shall also require, if the student is a minor, supervision of the student by the student's parent or guardian while the student is engaged in authorized state board business at a location other than the community in which the student resides, unless the student's parent or guardian submits to the state board a signed release indicating the parent or guardian has determined that supervision of the student by the parent or guardian is unnecessary. The nonvoting student member shall be appointed without

¹ The word "member" probably intended

² According to enrolled Act

regard to political affiliation. The nonvoting student member shall have been enrolled in a public school in Iowa for at least one year prior to the member's appointment. A nonvoting student member who will not graduate from high school prior to the end of a second term may apply to the state board for submission of candidacy to the governor for a second one-year term. A nonvoting student member shall be paid a per diem as provided in section 7E.6 and the student and the student's parent or guardian shall be reimbursed for actual and necessary expenses incurred in the performance of the student's duties as a nonvoting member of the state board. A vacancy in the membership of the nonvoting student member shall not be filled until the expiration of the term.

Sec. 4. Section 256.7, subsection 21, paragraph c, Code Supplement 2001, is amended to read as follows:

c. A requirement that all school districts and accredited nonpublic schools annually report to the department and the local community the district-wide progress made in attaining student achievement goals on the academic and other core indicators and the district-wide progress made in attaining locally established student learning goals. The school districts and accredited nonpublic schools shall demonstrate the use of multiple assessment measures in determining student achievement levels. The school districts and accredited nonpublic schools shall also report the number of students who enter ninth grade but do not graduate from the school or school district; and the number of students who are tested and the percentage of students who are so tested annually. The board shall develop and adopt uniform definitions consistent with the federal No Child Left Behind Act of 2001, Pub. L. No. 107-110 and any federal regulations adopted pursuant to the federal Act. The school districts and accredited nonpublic schools may report on other locally determined factors influencing student achievement. The school districts and accredited nonpublic schools shall also report to the local community their results by individual attendance center.

Sec. 5. Section 256.9, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 51. Disburse, transfer, or receive funds as authorized or required under federal or state law or regulation in a manner that utilizes electronic transfer of the funds whenever possible.

Sec. 6. Section 256.10, Code 2001, is amended to read as follows:

256.10 EMPLOYMENT OF PROFESSIONAL STAFF.

1. The salary of the director shall be fixed by the governor within a range established by the general assembly.

2. Appointments to the professional staff of the department shall be without reference to political party affiliation, religious affiliation, sex, or marital status, but shall be based solely upon fitness, ability, and proper qualifications for the particular position. The professional staff shall serve at the discretion of the director. A member of the professional staff shall not be dismissed for cause without appropriate due process procedures including a hearing.

3. The director may employ full-time professional staff for less than twelve months each year, but such staff shall be employed by the director for at least nine months of each year. Salaries for full-time professional staff employed as provided in this subsection shall be comparable to other professional staff, adjusting for time worked. Salaries for professional staff employed for periods of less than twelve months shall be paid during each month of the year in which they are employed on the same schedule as full-time permanent professional staff. The director shall provide for and the department shall pay for health and dental insurance benefits for twelve months each year for the full-time professional staff employed as provided in this subsection, and the health and dental insurance benefits provided shall be comparable to the benefits provided to all other professional staff employed by the director.

Sec. 7. Section 256.11, subsection 10, unnumbered paragraph 3, Code Supplement 2001, is amended to read as follows:

The department shall conduct site visits to schools and school districts to address accreditation issues identified in the desk audit. Such a visit may be conducted by an individual departmental consultant or may be a comprehensive site visit by a team of departmental consultants and other educational professionals. The purpose of a comprehensive site visit is to determine that a district is in compliance with minimum standards and to provide a general assessment of educational practices in a school or school district and make recommendations with regard to the visit findings for the purposes of improving educational practices above the level of minimum compliance. The department shall establish a long-term schedule of site visits that includes visits of all accredited schools and school districts ~~at least once every five years~~ as needed.

Sec. 8. Section 257.11, subsection 2, paragraph c, subparagraph (2), Code Supplement 2001, is amended to read as follows:

(2) A school district which was not participating in a whole grade sharing arrangement during the budget year beginning July 1, ~~2001~~ 2000, which executes a whole grade sharing agreement pursuant to sections 282.10 through 282.12 for the budget year beginning July 1, 2002, or 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. 9. Section 257.14, subsection 2, Code Supplement 2001, is amended to read as follows:

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, 15, annually, and shall 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 3, unnumbered paragraph 3, Code Supplement 2001, is amended to read as follows:

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, 15, annually, and shall notify the department of management of the adoption of the resolution and the amount of the budget adjustment to be received.

Sec. 11. Section 257.16, Code 2001, is amended to read as follows:

1. There is appropriated each year from the general fund of the state an amount necessary to pay the foundation aid and supplementary aid under section 257.4, subsection 2.

2. All state aids paid under this chapter, unless otherwise stated, shall be paid in monthly installments beginning on September 15 of a budget year and ending on or about June 15 of the budget year as determined by the department of management, taking into consideration the relative budget and cash position of the state resources.

3. All moneys received by a school district from the state under this chapter shall be deposited in the general fund of the school district, and may be used for any school general fund purpose.

4. Notwithstanding any provision to the contrary, if the governor orders budget reductions in accordance with section 8.31, reductions in the appropriations provided in accordance with this section shall be distributed on a per pupil basis calculated with the weighted enrollment determined in accordance with section 257.6, subsection 5.

Sec. 12. NEW SECTION. 257.50 FEDERAL ASSISTANCE — SCHOOL DISTRICT RESPONSIBILITIES.

The director of the department of education, in accepting and administering federal funds in accordance with section 256.9, subsection 7, shall upon receiving federal grant moneys under the federal 21st Century Community Learning Center Grant, Title IV, Part B of the federal No Child Left Behind Act of 2001, Pub. L. No. 107-110, designate that a school district be the fiscal agent for an eligible local grant. Whenever possible, the grant applicant school district shall collaborate with a community-based organization, a public or private entity, or a consortium of two or more of such organizations or entities in establishing a community learning center. The department shall give priority to applications for programs serving students determined through research-based methods to be in the greatest need of eligible services. Notwithstanding the provisions of this section, if federal rules or regulations relating to the 21st Century Community Learning Center Grant are adopted that are inconsistent with the provisions of this section, the department of education shall comply with the requirements of the federal rules or regulations.

Sec. 13. Section 260C.5, subsection 6, Code 2001, is amended by striking the subsection.

Sec. 14. Section 260C.14, subsection 1, Code Supplement 2001, is amended to read as follows:

1. Determine the curriculum to be offered in such school or college subject to approval of the ~~state board~~ director and ensure that all vocational offerings are competency-based, provide any minimum competencies required by the department of education, comply with any applicable requirements in chapter 258, and are articulated with local school district vocational education programs. If an existing private educational or vocational institution within the merged area has facilities and curriculum of adequate size and quality which would duplicate the functions of the area school, the board of directors shall discuss with the institution the possibility of entering into contracts to have the existing institution offer facilities and curriculum to students of the merged area. The board of directors shall consider any proposals submitted by the private institution for providing such facilities and curriculum. The board of directors may enter into such contracts. In approving curriculum, the ~~state board~~ director shall ascertain that all courses and programs submitted for approval are needed and that the curriculum being offered by an area school does not duplicate programs provided by existing public or private facilities in the area. In determining whether duplication would actually exist, the state board³ shall consider the needs of the area and consider whether the proposed programs are competitive as to size, quality, tuition, purposes, and area coverage with existing public and private educational or vocational institutions within the merged area. If the board of directors of the merged area chooses not to enter into contracts with private institutions under this subsection, the board shall submit a list of reasons why contracts to avoid duplication were not entered into and an economic impact statement relating to the board's decision.

Sec. 15. Section 260C.38, unnumbered paragraphs 1 and 3, Code 2001, are amended to read as follows:

The board of directors may, ~~with the approval of the director of the department of education,~~ enter into lease agreements, with or without purchase options, not to exceed twenty years in duration, for the leasing or rental of buildings for use basically as classrooms, laboratories,

³ The phrase "~~state board~~ director" probably intended

shops, libraries, and study halls for community college purposes, and pay for the leasing or rental with funds acquired pursuant to section 260C.17, section 260C.18, and section 260C.22. ~~However, lease agreements extending for less than ten years and for less than twenty-five thousand dollars per year need not be submitted to the director of the department of education for approval.~~

Before entering into a lease agreement with a purchase option for a building to be constructed, or placed, upon real estate owned by the community college, the board shall first adopt plans and specifications for the proposed building which it considers suitable for the intended use, and the board shall also adopt the proposed terms of the lease agreement and purchase option. ~~Upon obtaining the approval of the director of the department of education, if approval of the director is required, the~~ The board shall invite bids, by advertisement published once each week for two consecutive weeks in the county where the building is to be located. The lease agreement shall be awarded to the lowest responsible bidder, or the board may reject all bids and readvertise for new bids.

Sec. 16. Section 275.23A, subsection 2, Code 2001, is amended to read as follows:

2. Following each federal decennial census the school board shall determine whether the existing director district boundaries meet the standards in subsection 1 according to the most recent federal decennial census. If necessary, the board of directors shall redraw the director district boundaries. The director district boundaries shall be described in a resolution adopted by the school board. The resolution shall be adopted no earlier than November 15 of the year immediately following the year in which the federal decennial census is taken nor later than ~~April 30~~ May 15 of the second year immediately following the year in which the federal decennial census is taken. A copy of the plan shall be filed with the area education agency administrator of the area education agency in which the school's electors reside.

Sec. 17. Section 282.18, subsection 2, Code 2001, is amended to read as follows:

2. By January 1 of the preceding school year, the parent or guardian shall send notification to the district of residence ~~and the receiving district~~, on forms prescribed by the department of education, that the parent or guardian intends to enroll the parent's or guardian's child in a public school in another school district. If a parent or guardian fails to file a notification that the parent intends to enroll the parent's or guardian's child in a public school in another district by the deadline of January 1 of the previous year, and one of the criteria defined in subsection ~~16 4~~ exists for the failure to meet the deadline or if the request is to enroll a child in kindergarten in a public school in another district, the parent or guardian shall be permitted to enroll the child in the other district in the same manner as if the deadline had been met.

~~The board of directors of a school district may adopt a policy granting the superintendent of the district authority to approve open enrollment applications that are timely filed. However, the board of directors shall not grant the superintendent authority to deny open enrollment applications, except as provided in subsection 3. The board of the district of residence, or the superintendent with the board's authority to only approve applications, shall take action on the request no later than February 1 of the preceding school year and shall transmit any approved request within five days after board action on the request. The parent or guardian may withdraw the request at any time prior to the start of the school year. The board of the receiving district, or the superintendent with the board's authority to approve applications only, shall take action to approve or disapprove the request no later than March 1 of the preceding school year. The board of the receiving district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil. If the request is granted, the board shall transmit a copy of the form to the parent or guardian and the school district of residence within five days after board action, but not later than March 1 of the preceding school year. The parent or guardian may withdraw the request at any time prior to the start of the school year. A denial of a request by the board of a receiving district is not subject to appeal.~~

Sec. 18. Section 282.18, subsection 3, Code 2001, is amended to read as follows:

3. In all districts involved with voluntary or court-ordered desegregation, minority and non-minority pupil ratios shall be maintained according to the desegregation plan or order. The superintendent of a district subject to voluntary or court-ordered desegregation may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order or plan, unless the transfer is requested by a pupil whose sibling is already participating in open enrollment to another district. ~~If, however,~~ a transfer request would facilitate a voluntary or court-ordered desegregation plan, the district shall give priority to granting the request over other requests.

A parent or guardian, whose request has been denied because of a desegregation order or plan, may appeal the decision of the superintendent to the board of the district in which the request was denied. The board may either uphold or overturn the superintendent's decision. A decision of the board to uphold the denial of the request is subject to appeal ~~under section 290.1 to the district court in the county in which the primary business office of the district is located.~~

Sec. 19. Section 282.18, subsections 4 and 5, Code 2001, are amended by striking the subsections and inserting in lieu thereof the following:

4. a. After January 1 of the preceding school year and until the third Friday in September of that calendar year, the parent or guardian shall send notification to the district of residence and the receiving district, on forms prescribed by the department of education, that good cause, as defined in paragraph "b", exists for failure to meet the January 1 deadline. The board of the receiving district shall take action to approve the request if good cause exists. If the request is granted, the board shall transmit a copy of the form to the parent or guardian and the school district of residence within five days after board action. A denial of a request by the board of a receiving district is not subject to appeal.

b. For purposes of this section, "good cause" means a change in a child's residence due to a change in family residence, a change in the state in which the family residence is located, a change in a child's parents' marital status, a guardianship or custody proceeding, placement in foster care, adoption, participation in a foreign exchange program, or participation in a substance abuse or mental health treatment program, a change in the status of a child's resident district such as removal of accreditation by the state board, surrender of accreditation, or permanent closure of a nonpublic school, the failure of negotiations for a whole-grade sharing, reorganization, dissolution agreement or the rejection of a current whole-grade sharing agreement, or reorganization plan. If the good cause relates to a change in status of a child's school district of residence, however, action by a parent or guardian must be taken to file the notification within forty-five days of the last board action or within thirty days of the certification of the election, whichever is applicable to the circumstances.

c. If a resident district believes that a receiving district is unreasonable in approving applications submitted in accordance with this subsection, the resident district may request that the department review and take appropriate action.

5. Open enrollment applications filed after January 1 of the preceding school year that do not qualify for good cause as provided in subsection 4 shall be subject to the approval of the board of the resident district and the board of the receiving district. The parent or guardian shall send notification to the district of residence and the receiving district that the parent or guardian seeks to enroll the parent's or guardian's child in the receiving district. A decision of either board to deny an application filed under this subsection involving repeated acts of harassment of the student or serious health condition of the student that the resident district cannot adequately address is subject to appeal under section 290.1. The state board shall exercise broad discretion to achieve just and equitable results that are in the best interest of the affected child or children.

Sec. 20. Section 282.18, subsection 6, Code 2001, is amended to read as follows:

6. A request under this section is for a period of not less than one year. If the request is for more than one year and the parent or guardian desires to have the pupil enroll in a different district, the parent or guardian may petition the current receiving district by January 1 of the previous school year for permission to enroll the pupil in a different district for a period of not less than one year. Upon receipt of such a request, the current receiving district board may act on the request to transfer to the other school district at the next regularly scheduled board meeting after the receipt of the request. The new receiving district shall enroll the pupil in a school in the district unless there is insufficient classroom space in the district or unless enrollment of the pupil would adversely affect the court-ordered or voluntary desegregation plan of the district. A denial of a request to change district enrollment within the approved period is not subject to appeal ~~under section 290.1~~. However, a pupil who has been in attendance in another district under this section may return to the district of residence and enroll at any time, once the parent or guardian has notified the district of residence and the receiving district in writing of the decision to enroll the pupil in the district of residence.

Sec. 21. Section 282.18, subsection 14, Code 2001, is amended to read as follows:

14. If a pupil, for whom a request to transfer has been filed with a district, has been suspended or expelled in the district, the pupil shall not be permitted to transfer until the pupil has been reinstated in the sending district. Once the pupil has been reinstated, however, the pupil shall be permitted to transfer in the same manner as if the pupil had not been suspended or expelled by the sending district. If a pupil, for whom a request to transfer has been filed with a district, is expelled in the district, the pupil shall be permitted to transfer to a receiving district under this section if the pupil applies for and is reinstated in the sending district. However, if the pupil applies for reinstatement but is not reinstated in the sending district, the receiving district may deny the request to transfer. ~~The parent or guardian of the pupil shall be permitted to appeal the decision of the receiving district to the director of the department of education. If the director rules in favor of permitting the transfer, the pupil shall be permitted to transfer, but the transfer shall be conditioned upon the expiration of the expulsion period without the pupil incurring a new violation is not subject to appeal.~~

Sec. 22. Section 282.18, subsection 16, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

16. An application for open enrollment may be granted at any time with approval of the resident and receiving districts.

Sec. 23. Section 282.18, subsection 18, Code 2001, is amended by striking the subsection.

Sec. 24. Section 283A.2, subsection 2, paragraph a, Code 2001, is amended to read as follows:

~~a. A school district shall operate or provide for the operation of school breakfast and lunch programs at all attendance centers in the district. However, with the approval of the department of education as provided in paragraph "b",~~ a school district may operate or provide for the operation of school breakfast programs at all attendance centers in the district, or provide access to a school breakfast program at an alternative site to students who wish to participate in a school breakfast program. The programs shall provide students with nutritionally adequate meals and shall be operated in compliance with the rules of the state board of education and pertinent federal law and regulation. ~~The school lunch program shall be provided for all students in each district who attend public school four or more hours each school day and wish to participate in a school breakfast or lunch program. School districts may provide school breakfast and lunch programs for other students.~~

Sec. 25. Section 283A.2, subsection 2, paragraphs b and c, Code 2001, are amended by striking the paragraphs.

Sec. 26. Section 285.3, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

285.3 PARENTAL REIMBURSEMENT FOR NONPUBLIC SCHOOL PUPIL TRANSPORTATION.

1. A parent or legal guardian of a student attending an accredited nonpublic school, who furnishes transportation for the student pursuant to section 285.1, subsection 17, paragraph "c", and who meets the requirements of subsection 2 of this section, is entitled to reimbursement equal to an amount calculated under the provisions of section 285.1, subsection 3. In addition, a parent or guardian who transports one or more family members more than four miles to their nonpublic school of attendance shall be entitled to one supplemental mileage payment per family, per claim period, equal to thirteen percent of the parental reimbursement for the claim period rounded to the nearest whole dollar.

2. To qualify for parental reimbursement under subsection 1, a parent or guardian of a student attending an accredited nonpublic school who furnishes transportation for the student in accordance with this section, shall submit a notice of nonpublic school attendance to the resident public school district, notifying the district that the student is enrolled in and will attend an accredited nonpublic school during the period for which parental reimbursement is being requested. The notice shall be filed with the resident public school district not later than December 1 for the first semester claim and May 1 for the second semester claim each year. The notice shall include the parent's name and address, the name, age, and grade level of the student, and the name of the nonpublic school and its location. The resident public school district shall submit claims for reimbursement to the department of education on behalf of the parent or guardian if the parent or guardian meets the requirements of this section.

Sec. 27. Section 285.8, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 9. Establish a fee for conducting school bus inspections in accordance with subsection 4 and issuing school bus driver authorizations in accordance with section 321.376, which shall not exceed the budgeted cost for conducting inspections and administering authorizations.

Sec. 28. Section 285.12, Code 2001,⁴ 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 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 receipt of the~~ 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 ~~date and~~ 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 chapter 17A.~~ 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.

⁴ Code Supplement 2001 probably intended

Sec. 29. Section 290.1, Code 2001, is amended to read as follows:

290.1 APPEAL TO STATE BOARD.

~~A person~~ An affected pupil, or the parent or guardian of an affected pupil who is a minor, who is aggrieved by a decision or order of the board of directors of a school corporation in a matter of law or fact, or a decision or order of a board of directors under section 282.18, subsection 5, may, within thirty days after the rendition of the decision or the making of the order, appeal the decision or order to the state board of education; the basis of the proceedings shall be an affidavit filed with the state board by the party aggrieved within the time for taking the appeal, which affidavit shall set forth any error complained of in a plain and concise manner.

For purposes of section 282.11, a “person aggrieved” or “party aggrieved” means the “parent or guardian of an affected pupil”.

Sec. 30. Section 297.7, subsection 1, Code 2001, is amended to read as follows:

~~1. Sections 73A.2 and 73A.18 are applicable to the construction and repair of school buildings. Before construction of a school building for which the cost of construction exceeds twenty-five thousand dollars, the board of directors of a school district shall send a copy of the plans to the building consultant in the department of education for review. The board of directors may submit for review a copy of the plans for repair or renovation of a school building. The building consultant shall return the plans together with any recommendations to the board of directors within thirty days following the receipt of the plans.~~

Sec. 31. Section 301.1, Code 2001, is amended to read as follows:

301.1 ADOPTION — PURCHASE AND SALE — ACCREDITED NONPUBLIC SCHOOL PUPIL TEXTBOOK SERVICES.

~~1.~~ 1. The board of directors of each and every school district is hereby authorized and empowered to adopt textbooks for the teaching of all branches that are now or may hereafter be authorized to be taught in the public schools of the state, and to contract for and buy said books and any and all other necessary school supplies at said contract prices, and to sell the same to the pupils of their respective districts at cost, loan such textbooks to such pupils free, or rent them to such pupils at such reasonable fee as the board shall fix, and said money so received shall be returned to the general fund.

~~2.~~ 2. Textbooks adopted and purchased by a school district ~~may, and shall,~~ to the extent funds are appropriated by the general assembly, be made available to pupils attending accredited nonpublic schools upon request of the pupil or the pupil’s parent under comparable terms as made available to pupils attending public schools. If the general assembly appropriates moneys for purposes of making textbooks available to accredited nonpublic school pupils, the department of education shall ascertain the amount available to a school district for the purchase of nonsectarian, nonreligious textbooks for pupils attending accredited nonpublic schools. The amount shall 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. For purposes of this section, a “participating accredited nonpublic school” means an accredited nonpublic school that submits a written request on behalf of the school’s pupils in accordance with this subsection, and that certifies its actual enrollment to the department of education by October 1, annually. By October 15, annually, the department of education shall certify to the director of revenue and finance the annual amount to be paid to each school district, and the director of revenue and finance shall draw warrants payable to school districts in accordance with this subsection. For purposes of this subsection, an accredited nonpublic school’s enrollment count shall include only students who are residents of Iowa. The costs of providing textbooks to accredited nonpublic school pupils as provided in this subsection 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. Textbook expenditures made in accordance with this subsection shall be kept on file in the school district.

~~3.~~ 3. As used in ~~this paragraph~~ subsection 2, “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. 32. Section 321.178, subsection 1, unnumbered paragraph 1, Code Supplement 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:

Sec. 33. Section 321.178, subsection 1, unnumbered paragraphs 3, 4, and 5, Code Supplement 2001, are amended to read as follows:

Every public school district in Iowa shall offer or make available to all students residing in the school district or Iowa students attending a nonpublic school in the district an approved course in driver education. The courses may be offered at sites other than at the public school, including nonpublic school facilities within the public school districts. An approved course offered during the summer months, on Saturdays, after regular school hours during the regular terms or partly in one term or summer vacation period and partly in the succeeding term or summer vacation period, as the case may be, shall satisfy the requirements of this section to the same extent as an approved course offered during the regular school hours of the school term. A student who successfully completes and obtains certification in an approved course in driver education or an approved course in motorcycle education may, upon proof of such fact, be excused from any field test which the student would otherwise be required to take in demonstrating the student's ability to operate a motor vehicle. A student shall not be excused from any field test if a parent, guardian, or instructor requests that a test be administered. Street or highway driving instruction may be provided by a person qualified as a classroom driver education instructor or a person certified by the department of transportation and authorized by the board of educational examiners. A person shall not be required to hold a current Iowa teacher or administrator license at the elementary or secondary level or to have satisfied the educational requirements for an Iowa teacher license at the elementary or secondary level in order to be certified by the department of transportation or authorized by the board of educational examiners to provide street or highway driving instruction. A final field test prior to a student's completion of an approved course shall be administered by a person qualified as a classroom driver education instructor. The department of transportation shall adopt rules pursuant to chapter 17A to provide for certification of persons qualified to provide street or highway driving instruction. The board of educational examiners shall adopt rules pursuant to chapter 17A to provide for authorization of persons certified by the department of transportation to provide street or highway driving instruction.

"Student", for purposes of this section, means a person between the ages of fourteen years and twenty-one years who resides in the public school district and who satisfies the preliminary licensing requirements of the department of transportation.

Any person who successfully completes an approved driver education course at a private or commercial driver education school licensed by the department of transportation, shall likewise be eligible for a driver's license as provided in section 321.180B or 321.194.

Sec. 34. Section 321.375, subsection 1, paragraph d, Code 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

d. Possess a current certificate of qualification for operation of a commercial motor vehicle issued by a physician licensed pursuant to chapter 148 or 150A, physician's assistant, ad-

vanced registered nurse practitioner, or chiropractor or any other person identified by federal and state law as authorized to perform physical examinations.

Sec. 35. Section 321.375, subsection 2, paragraph c, Code 2001, is amended to read as follows:

c. Fraud in the procurement or renewal of a school bus driver's ~~permit authorization to operate a school bus.~~

Sec. 36. Section 321.376, Code 2001, is amended to read as follows:

321.376 LICENSE — PERMIT AUTHORIZATION — INSTRUCTION REQUIREMENT.

1. The driver of a school bus shall hold a driver's license issued by the department of transportation valid for the operation of the school bus and ~~shall hold a school bus driver's permit issued by the department of education when transporting student or adult passengers to or from school activities.~~ The department of education shall charge a fee for the issuance of a school bus driver's permit in the amount of five dollars, which shall be deposited in the general fund of the state ~~a certificate of qualification for operation of a commercial motor vehicle issued by a physician licensed pursuant to chapter 148 or 150A, physician's assistant, advanced registered nurse practitioner, or chiropractor or any other person identified by federal and state law as authorized to perform physical examinations, and shall successfully complete an approved course of instruction in accordance with subsection 2.~~ A person holding a temporary restricted license issued under chapter 321J shall be prohibited from operating a school bus. The department of education shall revoke or refuse to issue a ~~permit an authorization to operate a school bus~~ to any person who, after notice and opportunity for hearing, is determined to have committed any of the acts proscribed under section 321.375, subsection 2. The department of education shall recommend, and the state board of education shall adopt under chapter 17A, rules and procedures for the revocation and issuance of permits to persons ~~issuing and revoking authorization to operate a school bus in this state.~~ Rules and procedures adopted shall include, but are not limited to, provisions for the revocation of, or refusal to issue, ~~permits authorization~~ to persons who are determined to have committed any of the acts proscribed under section 321.375, subsection 2.

2. A person applying for employment or employed as a school bus driver shall successfully complete a department of education approved course of instruction for school bus drivers before or within the first six months of employment and at least every twenty-four months thereafter. If an employee fails to provide an employer with a certificate of completion of the required school bus driver's course, the driver's employer shall report the failure to the department of education and the employee's ~~authorization to operate a school bus driver's permit~~ shall be revoked. The department of education shall send notice of the revocation of the ~~employee's permit~~ to both the employee and the employer. A person whose school bus driver's ~~permit authorization~~ has been revoked under this section shall not be issued another school bus driver's ~~permit authorization~~ until certification of the completion of an approved school bus driver's course is received by the department of education.

3. ~~The department of education shall submit an annual budget request, separately from the department's annual operating budget request, in an amount not to exceed the amount collected by the department for the issuance of annual school bus driver permits. Funds requested shall be designated for purposes of establishing and conducting approved courses of instruction for school bus drivers and for school bus passenger safety programs. The department shall recommend rules for adoption by the state board of education relating to the assessment and collection of funds from the school bus driver fee and relating to distribution of funds for approved courses of instruction.~~

Sec. 37. Section 321J.22, subsection 2, paragraph d, Code 2001, is amended to read as follows:

d. The department of education shall establish reasonable fees to defray the expense of obtaining classroom space, instructor salaries, and class materials for courses offered both by

community colleges and by substance abuse treatment programs licensed under chapter 125, and for administrative expenses incurred by the department⁵ in implementing subsection 5.

Sec. 38. Section 455A.19, subsection 1, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

Upon receipt of any revenue, the director shall deposit the moneys in the Iowa resources enhancement and protection fund created pursuant to section 455A.18. The first three hundred fifty thousand dollars of the funds received for deposit in the fund annually shall be allocated to the conservation education program board for the purposes specified in section ~~256.34~~ 455A.21. One percent of the revenue receipts shall be deducted and transferred to the administration fund provided for in section 456A.17. All of the remaining receipts shall be allocated to the following accounts:

Sec. 39. NEW SECTION. 455A.21 CONSERVATION EDUCATION PROGRAM BOARD.

1. A conservation education program board is created in the department. The board shall have five members appointed as follows:

- a. One member appointed by the director of the department of education.
 - b. One member appointed by the director of the department of natural resources.
 - c. One member appointed by the president of the Iowa association of county conservation boards.
 - d. One member appointed by the president of the Iowa association of naturalists.
 - e. One member appointed by the president of the Iowa conservation education council.
2. Section 69.16 does not apply to appointments made pursuant to this section.
3. The duties of the board are to revise and produce conservation education materials and to specify stipends to Iowa educators who participate in innovative conservation education programs approved by the board. The board shall allocate the funds provided for under section 455A.19, subsection 1, for the educational materials and stipends.

4. The department shall administer the funds allocated to the conservation education program as provided in this section.

Sec. 40. Section 714.18, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Except as otherwise provided in subsection 4, every person, firm, association, or corporation maintaining or conducting in Iowa any such course of instruction, by classroom instruction or by correspondence, or soliciting in Iowa the sale of such course, shall file with the ~~director of the department of education~~ secretary of state:

Sec. 41. Section 714.18, subsections 1 and 2, Code 2001, are amended to read as follows:

1. A continuous corporate surety bond to the state of Iowa in the sum of fifty thousand dollars conditioned for the faithful performance of all contracts and agreements with students made by such person, firm, association, or corporation, or their salespersons; but the aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the sum of the bond. The surety on the bond may cancel the bond upon giving thirty days' written notice to the ~~director of the department of education~~ secretary of state and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

2. A statement designating a resident agent for the purpose of receiving service in civil actions. In the absence of such designation, service may be had upon the ~~director of the department of education~~ secretary of state if service cannot otherwise be made in this state.

Sec. 42. Section 714.18, subsection 4, Code 2001, is amended to read as follows:

4. A school licensed under the provisions of section 157.8 or 158.7 shall file with the ~~director of the department of education~~ secretary of state:

- a. A continuous corporate surety bond to the state of Iowa in the sum of fifty thousand dol-

⁵ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §240, 262 herein

lars or ten percent of the total annual tuition collected, whichever is less, conditioned for the faithful performance of all contracts and agreements with students made by such school. A school desiring to file a surety bond based on a percentage of annual tuition shall provide to the ~~director of the department of education~~ secretary of state, in the form prescribed by the ~~director~~ secretary, a notarized statement attesting to the total amount of tuition collected in the preceding twelve-month period. The ~~director~~ secretary shall determine the sufficiency of the statement and the amount of the bond. Tuition information submitted pursuant to this paragraph shall be kept confidential.

If the school has filed a performance bond with an agency of the United States government pursuant to federal law, the ~~director of the department of education~~ secretary of state shall reduce the bond required by this paragraph by an amount equal to the amount of the federal bond.

The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the sum of the bond. The surety on the bond may cancel the bond upon giving thirty days' written notice to the ~~director of the department of education~~ secretary of state and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

The ~~director of the department of education~~ secretary of state may accept a letter of credit from a bank in lieu of the corporate surety bond required by this paragraph.

- b. The statement required in subsection 2.
- c. The materials required in subsection 3.

Sec. 43. Section 714.22, subsection 1, Code 2001, is amended to read as follows:

1. File a bond or a bond is filed on their behalf by a parent corporation with the ~~director of the department of education~~ secretary of state as required by section 714.18.

Sec. 44. Sections 256.34, 260C.70, 301.29, and 301.30, Code 2001, are repealed.

Sec. 45. WHOLE-GRADE SHARING AGREEMENT DEADLINE WAIVER. Notwithstanding sections 282.10 and 282.11, the department of education may, at the department's discretion, waive any of the deadline requirements of sections 282.10 and 282.11, relating to the signing of a whole-grade sharing agreement by the boards of two or more school districts involved in the agreement and the public notice and hearing requirements, if one of the districts involved in the agreement has an enrollment of less than two hundred. This section is repealed July 1, 2002.

Sec. 46. EFFECTIVE DATE. Section 16 of this Act, amending section 275.23A, subsection 2, being deemed of immediate importance, takes effect upon enactment.

Sec. 47. EFFECTIVE DATES — APPLICABILITY.

1. Sections 9 and 10 of this Act, relating to the date of adoption of a budget adjustment resolution and notification of that adoption, being deemed of immediate importance, take effect upon enactment and apply retroactively for budget adjustment notification for the school budget year beginning July 1, 2002.

2. Section 45 of this Act, relating to a waiver for whole-grade sharing agreement deadlines, being deemed of immediate importance, takes effect upon enactment and applies from the date of enactment to June 30, 2002.

Sec. 48. FUTURE EFFECTIVE DATE. The section of this Act amending section 321.375, subsection 1, paragraph "d", Code 2001, takes effect July 1, 2003.

Approved April 30, 2002

CHAPTER 1141

**RESIDENT HUNTING LICENSE FEE —
PHEASANT AND QUAIL RESTORATION**

H.F. 2591

AN ACT relating to an increase in the resident hunting license fee and establishing a pheasant and quail restoration program and making an appropriation.

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

Section 1. Section 483A.1, subsection 1, paragraph c, Code Supplement 2001, is amended to read as follows:

c. Hunting license \$ ~~12.50~~ 17.00

Sec. 2. NEW SECTION. 483A.25 PHEASANT AND QUAIL RESTORATION PROGRAM — APPROPRIATIONS.

The revenue received from the resident hunting license fee increase in this Act for each fiscal year of the fiscal period beginning July 1, 2002, and ending June 30, 2007, is appropriated to the department. Of the amount appropriated to the department pursuant to this section, at least sixty percent shall be used to fund a pheasant and quail restoration program. The department shall submit a report annually on the pheasant and quail restoration program to the chairpersons of the house committee on natural resources and the senate committee on natural resources and environment not later than January 1, 2004, and not later than January 1 of each subsequent year.

Approved April 30, 2002

CHAPTER 1142

REGULATION OF CHILD CARE AND CHILD CARE PROVIDERS

S.F. 2205

AN ACT relating to regulation of child care and child development homes and child care centers and providing effective date and applicability provisions.

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

Section 1. Section 232.69, subsection 1, paragraph b, subparagraph (5), Code Supplement 2001, is amended to read as follows:

(5) An employee or operator of a licensed child care center, registered child eare development 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.

Sec. 2. Section 237.1, subsection 4, paragraph d, Code 2001, is amended to read as follows:

d. Child care furnished by a child care center, a child development home, or a child care home as defined in section 237A.1.

Sec. 3. Section 237A.1, subsection 2, Code Supplement 2001, is amended to read as follows:

2. "Child" means a either of the following:

a. A person under eighteen twelve years of age or younger.

b. A person thirteen years of age or older but younger than nineteen years of age who has a developmental disability as defined under the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Pub. L. No. 106-402, as codified in 42 U.S.C. § 15002(8).

Sec. 4. Section 237A.1, subsection 3, paragraph h, Code Supplement 2001, is amended to read as follows:

h. An after school program continuously offered throughout the school year calendar to children who are at least five years of age and are enrolled in school, and attend the program intermittently or a summer-only program for such children. The program must be provided through a nominal membership fee or at no cost.

Sec. 5. Section 237A.1, subsection 3, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. A program offered to a child whose parent, guardian, or custodian is engaged solely in a recreational or social activity, remains immediately available and accessible on the physical premises on which the child's care is provided, and does not engage in employment while the care is provided.

Sec. 6. Section 237A.1, subsections 4, 5, and 6, Code Supplement 2001, are amended to read as follows:

4. "Child care center" or "center" means a facility providing child care or preschool services for seven or more children, except when the facility is registered as a child care development home.

5. "Child care facility" or "facility" means a child care center, preschool, or a registered child care development home.

6. "Child care home" means a person or program providing child care as a family child care home or a group child care home to five or fewer children at any one time that is not registered to provide child care under this chapter, as authorized under section 237A.3.

Sec. 7. Section 237A.1, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. "Child development home" means a person or program registered under section 237A.3A that may provide child care to six or more children at any one time.

Sec. 8. Section 237A.1, subsections 7 and 10, Code Supplement 2001, are amended by striking the subsections.

Sec. 9. Section 237A.2, subsection 2, Code 2001, is amended to read as follows:

2. a. A person denied a license under ~~the provisions of this section~~ shall receive written notice of the denial stating the reasons for denial and shall be provided with an opportunity for an evidentiary hearing.

b. ~~Licenses granted~~ A license issued under this chapter shall be valid for ~~one year~~ twenty-four months from the date of issuance. A license shall remain valid unless it is revoked or suspended in accordance with the provisions of section 237A.8 or ~~is~~ reduced to a provisional license under subsection 3. The department may inspect a licensed center at any time. A record of the license shall be kept by the department.

c. The license shall be posted in a conspicuous place in the center and shall state the particular premises in which child care may be offered and the number of individuals who may be received for care at any one time. A greater number of children than is authorized by the license shall not be kept in the center at any one time.

Sec. 10. Section 237A.2, subsection 5, Code 2001, is amended to read as follows:

5. If the department has denied or revoked a license because the applicant or person has continually or repeatedly failed to operate a licensed center in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not own or operate a child care center for a period of ~~six~~ twelve months from the date the license is denied or revoked. The department shall not act on an application for a license submitted by the applicant or person during the ~~six-month~~ twelve-month period.

Sec. 11. Section 237A.3, Code Supplement 2001, is amended by striking the section and inserting in lieu thereof the following:

237A.3 CHILD CARE HOMES.

A person or program providing child care to five children or fewer at any one time is a child care home provider and is not required to register under section 237A.3A as a child development home. However, the person or program may register as a child development home.

Sec. 12. Section 237A.3A, Code Supplement 2001, is amended by striking the section and inserting in lieu thereof the following:

237A.3A CHILD DEVELOPMENT HOMES.

1. REGISTRATION.

a. A person shall not establish or operate a child development home unless the person obtains a certificate of registration. The department shall issue a certificate of registration upon receipt of a statement from the person or upon completion of an inspection conducted by the department or a designee of the department verifying that the person complies with applicable rules adopted by the department pursuant to this section and section 237A.12.

b. The certificate of registration shall be posted in a conspicuous place in the child development home and shall state the name of the registrant, the registration category of the child development home, the maximum number of children who may be present for child care at any one time, and the address of the child development home. In addition, the certificate shall include a checklist of registration compliances.

c. The registration process for a child development home shall be repeated every twenty-four months as provided by rule.

d. A person who holds a child foster care license under chapter 237 shall register as a child development home provider in order to provide child care.

2. REVOCATION OR DENIAL OF REGISTRATION. If the department has denied or revoked a certificate of registration because a person has continually or repeatedly failed to operate a registered or licensed child care facility in compliance with this chapter and rules adopted pursuant to this chapter, the person shall not operate or establish a registered child development home for a period of twelve months from the date the registration or license was denied or revoked. The department shall not act on an application for registration submitted by the person during the twelve-month period.

3. RULES.

a. Three categories of standards shall be applicable to child development homes. The initial designations of the categories, which may be revised by the department, shall be "A", "B", and "C", as ranked from less stringent standards and capacity to more stringent standards and capacity. The "C" registration category standards shall require the highest level of provider qualifications and allow the greatest capacity of the three categories. The department of human services, in consultation with the Iowa department of public health, shall adopt rules applying standards to each category specifying provider qualifications and training, health and safety requirements, capacity, amount of space available per child, and other minimum requirements. The capacity requirements shall take into consideration the provider's own children, children who have a mild illness, children receiving part-time child care, and children served as a sibling group in overnight care.

b. The rules shall allow a child development home to be registered in a particular category for which the provider is qualified even though the amount of space required to be available

for the maximum number of children authorized for that category exceeds the actual amount of space available in that home. However, the total number of children authorized for the child development home at that category of registration shall be limited by the amount of space available per child.

c. In consultation with the state fire marshal, the department shall adopt rules relating to the provision of fire extinguishers, smoke detectors, and two exits accessible to children in a child development home.

4. NUMBER OF CHILDREN.

a. In determining the number of children present for child care at any one time in a child development home, each child present in the child development home shall be considered as being provided child care unless the child is described by one of the following exceptions:

(1) The child's parent, guardian, or custodian operates or established the child development home and the child is attending school or the child is provided child care full-time on a regular basis by another person.

(2) The child has been present in the child development home for more than seventy-two consecutive hours and the child is attending school or the child is provided child care full-time on a regular basis by another person.

b. For purposes of determining the number of children present for child care in a child development home, a child receiving foster care from a child development home provider shall be considered to be the child of the provider.

5. Smoking, as defined in section 142B.1, shall not be permitted during a child development home's hours of operation in an area of the child development home which may be used by the children receiving child care.

Sec. 13. Section 237A.4, Code 2001, is amended to read as follows:

237A.4 INSPECTION AND EVALUATION.

The department shall make periodic inspections of licensed centers to ensure compliance with licensing requirements provided in this chapter, and the local boards of health may make periodic inspections of licensed centers to ensure compliance with health-related licensing requirements provided in this chapter. The ~~administrator~~ department may inspect records maintained by a licensed center and may inquire into matters concerning these centers and the persons in charge. The ~~administrator~~ department shall require that the center be inspected by the state fire marshal or a designee for compliance with rules relating to fire safety before a license is granted or renewed. The ~~administrator~~ department or a designee may periodically visit registered child care development homes for the purpose of evaluation of an inquiry into matters concerning compliance with rules adopted under section 237A.12. Evaluation of child care development homes under this section may include consultative services provided pursuant to section 237A.6.

Sec. 14. Section 237A.12, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Subject to the provisions of chapter 17A, the ~~administrator~~ department shall adopt rules setting minimum standards to provide quality child care in the operation and maintenance of child care centers and registered child care development homes, relating to all of the following:

Sec. 15. Section 237A.12, subsection 1, paragraph c, Code 2001, is amended to read as follows:

c. The adequacy of activity programs and food services available to the children. The ~~administrator~~ department shall not restrict the use of or apply nutritional standards to a lunch or other meal which is brought to the center, child development home, or child care home by a school-age child for the child's consumption.

Sec. 16. Section 237A.12, subsection 3, Code 2001, is amended to read as follows:

3. Rules relating to fire safety ~~for child care centers~~ shall be adopted under this chapter by the state fire marshal in consultation with the department. Rules adopted by the state fire marshal for a building which is owned or leased by a school district or accredited nonpublic school and used as a child care facility shall not differ from standards adopted by the state fire marshal for school buildings under chapter 100. Rules relating to sanitation shall be adopted by the department in consultation with the director of public health. All rules shall be developed in consultation with the state child care advisory council. The state fire marshal shall inspect the facilities.

Sec. 17. Section 237A.13, subsection 2, Code 2001, is amended to read as follows:

2. Services under the program may be provided in a licensed child care center, a ~~registered group child care development~~ home, a ~~registered family child care~~ home, the home of a relative, the child's own home, an ~~unregistered family~~ a child care home, or in a facility exempt from licensing or registration.

Sec. 18. Section 237A.13, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 5A. A child care facility that previously received child care wrap-around funding, meets the requirements for being a shared vision program except that a shared vision program is not operated in the county in which the facility is located, and is providing a child care wrap-around service that is included in the community empowerment area board's plan for the community empowerment area in which the facility is located shall be deemed to be qualified for child care wrap-around funding.

Sec. 19. Section 237A.19, Code 2001, is amended to read as follows:

237A.19 PENALTY.

1. A person who establishes, conducts, manages, or operates a center without a license shall be guilty of commits a serious misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, shall be considered a separate offense.

2. If registration is required under section ~~237A.3~~ 237A.3A, a person who establishes, conducts, manages, or operates a child care development home without registering or a person who operates a child care development home contrary to section 237A.5, is guilty of commits a simple misdemeanor. Each day of continuing violation after conviction, or notice from the department by certified mail of the violation, is a separate offense. A single charge alleging continuing violation may be made in lieu of filing charges for each day of violation.

Sec. 20. Section 237A.20, Code 2001, is amended to read as follows:

237A.20 INJUNCTION.

A person who establishes, conducts, manages, or operates a center without a license or a child care development home without a certificate of registration, if registration is required under section ~~237A.3~~ 237A.3A, may be restrained by temporary or permanent injunction. A person who has been convicted of a crime against a person or a person with a record of founded child abuse may be restrained by temporary or permanent injunction from providing unregistered, registered, or licensed child care. The action may be instituted by the state, the county attorney, a political subdivision of the state, or an interested person.

Sec. 21. Section 237A.21, subsection 1, Code 2001, is amended to read as follows:

1. A state child care advisory council is established consisting of not more than thirty-five members from urban and rural areas across the state. The membership shall include, but is not limited to, all of the following persons or representatives with an interest in child care: a licensed center provider, a registered child care development home provider from a county with a population of less than twenty-two thousand, an unregistered child care home provider, a parent of a child in child care, staff members of appropriate governmental agencies, and oth-

er members as deemed necessary by the director. The members are eligible for reimbursement of their actual and necessary expenses while engaged in performance of their official duties.

Sec. 22. Section 237A.21, subsection 3, paragraphs a, e, and f, Code 2001, are amended to read as follows:

- a. Two parents of a child served by a registered child care development home.
- e. ~~Two family~~ One child care home providers provider.
- f. ~~Two group~~ Three child care development home providers.

Sec. 23. Section 237A.26, subsection 3, paragraph a, Code 2001, is amended to read as follows:

- a. Organize assistance to child care homes and child development homes utilizing training levels based upon the homes' degrees of experience and interest.

Sec. 24. Section 237A.26, subsection 6, paragraph e, Code 2001, is amended to read as follows:

- e. Provide specialized services to employers, including the provision of resource and referral services to employee groups identified by the employer and the provision of technical assistance to develop employer-supported child care programs. The specialized services may include but are not limited to working with employers to identify networks of recommended registered and licensed child care providers for employee groups and to implement employer-supported quality improvement initiatives among the network providers.

Sec. 25. Section 237A.26, subsection 6, paragraph h, Code 2001, is amended to read as follows:

- h. Administer funding designated within the grant to provide a substitute caregiver program for registered child care development homes to provide substitute child care in a home when the home provider is ill, on vacation, receiving training, or is otherwise unable to provide the care.

Sec. 26. Section 237A.26, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 8. For purposes of improving the quality and consistency of data collection, consultation, and other support to child care home and child development home providers, a resource and referral services agency grantee shall coordinate and assist with publicly and privately funded efforts administered at the community level to provide the support. The support and efforts addressed by a grantee may include but are not limited to community-funded child care home and child development home consultants. Community members involved with the assistance may include but are not limited to the efforts of a community empowerment area board under chapter 28, and of community representatives of education, health, human services, business, faith, and public interests.

Sec. 27. Section 237A.30, subsection 1, Code 2001, is amended to read as follows:

1. The department shall accept nationally recognized accreditations in identifying and listing high quality child care providers. Any registered ~~family or group~~ child development home or licensed child care provider in this state that is accredited in good standing by the national association for the education of young children or the national association for family child care shall be included in the listing.

Sec. 28. Section 237A.30, subsection 4, Code 2001, is amended to read as follows:

4. Subject to the availability of funding, an eligible holder of the gold seal quality designation receiving an initial or renewal national accreditation may receive a one-time cash award in the year of initial or renewal accreditation on or after July 1, 1999. Holders of the designation who received funding assistance to obtain the initial or renewal national accreditation

under a grant administered by the child development coordinating council or as part of being a federal head start program are not eligible for the cash award. Eligible holders of the designation may receive a cash award of two hundred fifty dollars for registered ~~family and group care~~ child development home providers and five hundred dollars for licensed centers.

Sec. 29. Section 237A.27, Code 2001, is repealed.

Sec. 30. CHILD DEVELOPMENT HOME REGISTRATION — TRANSITION EXCEPTION. The following transition exception shall apply to child development home providers initially registering under section 237A.3A or renewing a previously issued valid child care home registration on or after October 1, 2002:

1. If the provider is providing child care to four infants at the time of registration or renewal, the provider may continue to provide child care to those four infants. However, if the provider no longer provides child care to one or more of the four infants, or one or more of the four infants reaches the age of twenty-four months, the exception authorized in this subsection shall no longer apply. This exception does not affect the overall limitation authorized for the number of children in the child development home category within which the provider is registered.

2. If, at the time of registration or renewal, the provider is providing child care to school-age children in excess of the number of school-age children authorized for the provider's registration category, the provider may continue to provide child care to those children and the provider may exceed the total number of children authorized for the category of registration by the number of school-age children in excess of the number authorized for the registration level. This exception is subject to all of the following:

a. The provider must comply with the other requirements relating to the number of children for which the provider is authorized to provide child care at that registration category.

b. The maximum number of children attributable to the authorization for school-age children at the applicable registration category is five.

c. If more than eight children are present at any one time for more than two hours, the provider shall be assisted by a responsible person who is at least fourteen years of age.

d. If the provider no longer provides child care to an individual school-age child who was receiving child care from the provider at the time of registration under section 237A.3A, the excess number of children allowed under this exception shall be reduced accordingly.

Sec. 31. EFFECTIVE DATE — APPLICABILITY — EMERGENCY RULES.

1. This Act takes effect October 1, 2002, and applies to unregistered child care home providers and child development home providers that register or renew registration on or after that date. If a child care home is registered as a family or group child care home as of September 30, 2002, this Act shall apply upon registration renewal.

2. The department of human services may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act and the rules shall be 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 date is specified in the rules. Any rules adopted in accordance with this section shall not take effect before the administrative rules review committee reviews 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.

Approved May 2, 2002

CHAPTER 1143**SALE OF IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY
DAIRY RESEARCH FARM — USE OF PROCEEDS***S.F. 2316*

AN ACT relating to the sale of certain farmland by Iowa state university of science and technology, providing for the appropriation and use of proceeds from the sale, and providing an effective date.

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

Section 1. LEGISLATIVE FINDINGS — GOAL.

1. The general assembly finds and declares that Iowa state university of science and technology has maintained a very successful dairy research facility for more than fifty years consisting of one thousand one hundred acres at its Ankeny dairy farm. However, the dairy farm's facilities have become outdated. The general assembly further finds that in the years since the land for the dairy farm was first purchased by the university, the city of Ankeny has grown and now surrounds the facility. The general assembly finds that the dairy farm is now inhibiting the city's future growth and forcing real estate developers to develop land outside the city, exacerbating urban sprawl.

2. The purpose of this Act is to encourage the university's continued financial commitment to dairy research and teaching, to promote economic growth in the state, and to provide for intelligent growth within existing city limits.

Sec. 2. NEW SECTION. 266.39F SALE OF DAIRY BREEDING RESEARCH FARM.

1. Immediately after the effective date of this Act, Iowa state university of science and technology shall develop a plan to sell, at market value, the one thousand one hundred-acre tract of land within the city limits of Ankeny, commonly referred to as the Iowa state university dairy breeding research farm. The plan shall include the sale of substantial portions of the tract as soon as practical, and the sale of all of the tract within a commercially reasonable time. Prior to implementing the plan, the university shall submit the plan to the state board of regents for review and approval. The sale shall be handled in a manner that is the most financially beneficial to the university. Appraisals conducted by the university of the value of any portion of the tract shall be made available to the public immediately following the sale of that portion of the tract.

2. The proceeds from the sale of the property as provided in subsection 1 are appropriated and shall be retained by Iowa state university of science and technology for use in establishing a new dairy research and dairy teaching facility or for the university's plant sciences institute.

The provisions of section 262.9, subsection 7, and section 262.10, shall not apply to the sale of any portion of land to be sold in accordance with this section or to the use of the proceeds from the sale of the land.

3. By December 15 annually, the state board of regents shall submit a report of the activities and costs of the sale of any property in accordance with subsection 1, including but not limited to the use of any proceeds from the sale of the property and the environmental cleanup costs for any proposed sale in accordance with this section, to the general assembly in accordance with section 7A.11A, and to the legislative fiscal bureau, until such time as the sale of the property is complete and the proceeds have been expended by the university, at which time the state board of regents shall submit a final report on the sale of the property and use of the proceeds to the general assembly in accordance with section 7A.11A and to the legislative fiscal bureau.

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

Approved May 2, 2002

CHAPTER 1144

NOTARIAL ACTS BY JUDICIAL OFFICERS

H.F. 2191

AN ACT relating to notarial acts by judicial officers.

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

Section 1. Section 9E.6A, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

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~~ performed by a judicial officer as defined in section 602.1101, if the notarial act is performed in accordance with state or federal statutory authority.

PARAGRAPH DIVIDED. The stamp or seal as required in this section shall contain all of the following:

Approved May 2, 2002

CHAPTER 1145

ENTERPRISE ZONES

H.F. 2378

AN ACT relating to the enterprise zone program and providing effective and retroactive applicability dates.

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

Section 1. Section 15E.192, subsections 2, 3, and 4, Code 2001, are amended to read as follows:

2. A city with a population of twenty-four thousand or more, as shown by the 1990 2000 certified federal census, may create an economic development enterprise zone as authorized in this division, subject to certification by the department of economic development, by designating one or more contiguous census tracts, as determined in the most recent federal census, or designating other geographic units approved by the department of economic development for that purpose. If there is an area in the city which meets the requirements for eligibility for an urban or rural enterprise community under Title XIII of the federal Omnibus Budget Reconciliation Act of 1993, such area shall be designated by the state an economic development enterprise zone. The area meeting the requirements for eligibility for an urban or rural enterprise community shall not be included for the purpose of determining the area limitation pursuant to subsection 4. In creating an enterprise zone, a city with a population of twenty-four thousand or more, as shown by the 1990 2000 certified federal census, may designate as part of the area tracts or approved geographic units located in a contiguous city if such tracts or approved geographic units meet the criteria and the city agrees to being included. The city may establish more than one enterprise zone. Reference in this division to "city" means a city with a population of twenty-four thousand or more, as shown by the 1990 2000 certified federal census.

3. a. A county may designate an enterprise zone within an area located in one or more contiguous census tracts or other geographic units of the county that meets at least two of the following distress criteria:

(1) The area has a per capita income of nine thousand six hundred dollars or less based according to the 1990 census.

(2) The area has a family poverty rate of twelve percent or more according to the 1990 census.

(3) Ten percent or more of the housing units in the area are vacant.

(4) The valuations of each class of property in the designated area of the census tract is seventy-five percent or less of the countywide average for that classification based upon the most recent valuations for property tax purposes.

(5) The area is a blighted area, as defined in section 403.17.

b. The department shall not approve more than five enterprise zones designated under this subsection prior to July 1, 2001.

4. a. A county or city which meets the distress criteria provided in section 15E.194, Code 2001, may apply to the department for an area to be certified as an enterprise zone at any time prior to July 1, 2003. However, the total amount of land designated as enterprise zones under subsections 1 and 2, and any other enterprise zones certified by the department, excluding those approved pursuant to section 15E.194, subsection 4, shall not exceed in the aggregate one percent of the total county area.

b. An enterprise zone certified by the department shall not be decertified or amended.

c. A county or city may apply to the department for an area to be certified as an enterprise zone at any time prior to July 1, 2005. However, the total amount of land designated as enterprise zones under subsections 1 and 2, and any other enterprise zones certified by the department, excluding those approved pursuant to section 15E.194, subsection 4, shall not exceed in the aggregate one percent of the total county area.

Sec. 2. Section 15E.193B, subsection 1, Code Supplement 2001, is amended to read as follows:

1. A housing business qualifying under this section is eligible to receive incentives and assistance only as provided in this section. An eligible housing business shall not receive incentives or assistance for a home or multiple dwelling unit built or rehabilitated in an enterprise zone designated pursuant to section 15E.194, subsection 4. Sections 15E.193 and 15E.196 do not apply to an eligible housing business qualifying under this section.

Sec. 3. Section 15E.193B, subsection 6, paragraph a, Code Supplement 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, 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.

Sec. 4. Section 15E.193C, subsections 2, 5, and 10, Code Supplement 2001, are amended to read as follows:

2. An eligible development business includes a developer or development contractor that constructs, expands, or rehabilitates a building space within a designated enterprise zone 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.~~ A development business is eligible to receive incentives and assistance under this section if businesses locating into the building space have not closed or reduced its operation in one area of the state or a city and relocated substantially the same operation in the 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.

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. Nonretail businesses locating in a building space must create at least ten full-time positions, meet the criteria provided in section 15E.193, subsection 1, paragraphs "a", "b", and "c", and not share common ownership or common management with the development business. A development business shall receive a pro rata share of the total incentives and assistance available to the development business based on the percentage of the building that is leased to nonretail businesses. The department shall determine the procedure for issuing the incentives and assistance on a pro rata basis.

~~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.~~

Sec. 5. Section 15E.193C, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 12. An approved development business shall submit an annual report to the department of economic development detailing and certifying the number of signed leases, jobs created, and total occupancy of the building. An approved development business shall begin submitting annual reports the year upon approval of the application and shall continue to submit annual reports until incentives and assistance provided pursuant to this section are no longer received by the approved development business.

Sec. 6. Section 15E.194, subsections 1, 2, and 4, Code 2001, are amended to read as follows:

1. An enterprise zone may be designated by a county which meets at least two of the following criteria:

a. The county has an average weekly wage that ranks among the bottom twenty-five counties in the state based on the ~~1995~~ 2000 annual average weekly wage for employees in private business.

b. The county has a family poverty rate that ranks among the top twenty-five counties in the state based on the ~~1990~~ 2000 census.

c. The county has experienced a percentage population loss that ranks among the top twenty-five counties in the state between ~~1990 and 1995~~ and 2000.

d. The county has a percentage of persons sixty-five years of age or older that ranks among the top twenty-five counties in the state based on the ~~1990~~ 2000 census.

2. An enterprise zone may be designated by a city which meets at least two of the following criteria:

- a. The area has a per capita income of ~~nine thousand six hundred~~ twelve thousand six hundred forty-eight dollars or less based on the ~~1990~~ 2000 census.
- b. The area has a family poverty rate of twelve percent or higher based on the ~~1990~~ 2000 census.
- c. Ten percent or more of the housing units are vacant in the area.
- d. The valuations of each class of property in the designated area is seventy-five percent or less of the citywide average for that classification based upon the most recent valuations for property tax purposes.
- e. The area is a blighted area, as defined in section 403.17.

4. a. A city of any size or any county may designate an enterprise zone at any time prior to July 1, 2010, when a business closure occurs involving the loss of full-time employees, not including retail employees, at one place of business totaling at least one thousand employees or four percent or more of the county's resident labor force based on the most recent annual resident labor force statistics from the department of workforce development, whichever is lower. The enterprise zone may be established on the property of the place of business that has closed and the enterprise zone may include an area up to an additional ~~one mile~~ three miles adjacent to the property. The area meeting the requirements for enterprise zone eligibility under this subsection shall not be included for the purpose of determining the area limitation pursuant to section 15E.192, subsection 4. An eligible housing business under section 15E.193B shall not receive incentives or assistance for a home or multiple dwelling unit built or rehabilitated in an enterprise zone designated pursuant to this subsection.

b. The area included in an enterprise zone designated under this subsection on or after June 1, 2000, may be amended to change the boundaries of the enterprise zone. Such an amendment must be approved by the department within three years of the date the enterprise zone was certified.

Sec. 7. Section 15E.192, subsection 4, paragraph a, Code 2003, is amended by striking the paragraph.

Sec. 8. Section 422.6, unnumbered paragraph 1, Code 2001, is amended to read as follows:
The tax imposed by section 422.5 less the credits allowed under sections 15.333, 15.335, ~~15E.193A~~, 422.10, 422.11, 422.11A, and 422.11B, and the personal exemption credit allowed under section 422.12 apply to and are a charge against estates and trusts with respect to their taxable income, and the rates are the same as those applicable to individuals. The fiduciary shall make the return of income for the estate or trust for which the fiduciary acts, whether the income is taxable to the estate or trust or to the beneficiaries. However, for tax years ending after August 5, 1997, if the trust is a qualified preneed funeral trust as set forth in section 685 of the Internal Revenue Code and the trustee has elected the special tax treatment under section 685 of the Internal Revenue Code, neither the trust nor the beneficiary is subject to Iowa income tax on income accruing to the trust.

Sec. 9. Section 15E.193A, Code 2001, is repealed.

Sec. 10. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. Section 4 of this Act, amending section 15E.193C, subsections 2, 5, and 10, Code⁶ 2001, being deemed of immediate importance, takes effect April 30, 2002, and, if approved by the governor after April 30, 2002, shall apply retroactively to April 30, 2002.

2. Section 7 of this Act, striking section 15E.192, subsection 4, paragraph "a", Code 2003, takes effect July 1, 2003.

Approved May 2, 2002

⁶ See chapter 1175, §99 herein

CHAPTER 1146ADMINISTRATION OF MENTAL HEALTH
AND DEVELOPMENTAL DISABILITIES SERVICES

H.F. 2430

AN ACT providing for the mental health and developmental disabilities commission to assume the duties of the state-county management committee and providing new rulemaking authority associated with those duties and including an applicability provision.

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

Section 1. Section 225C.5, subsection 1, Code 2001, is amended to read as follows:

1. A mental health and developmental disabilities commission is created as the state policy-making body for the provision of services to persons with mental illness, mental retardation or other developmental disabilities, or brain injury. The commission shall consist of ~~fifteen~~ sixteen voting members appointed to three-year staggered terms by the governor and subject to confirmation by the senate. Commission members shall be appointed on the basis of interest and experience in the fields of mental health, mental retardation or other developmental disabilities, and brain injury, in a manner so that, if possible, ~~the composition of the commission will comply with the requirements of the Community Mental Health Centers Amendments of 1975, 42 U.S.C. § 2689t(a) (1976) relative to a state mental health advisory council,~~ and so as to ensure adequate representation from persons with disabilities and individuals knowledgeable concerning disability services. The department shall provide staff support to the commission, and the commission may utilize staff support and other assistance provided to the commission by other persons. The commission shall meet at least four times per year. Members of the commission shall include the following persons who, at the time of appointment to the commission, are active members of the indicated groups:

- a. ~~Four~~ Three members shall be members of a county board of supervisors selected from nominees submitted by the county supervisor affiliate of the Iowa state association of counties.
- b. Two members shall be members of a mental health and developmental disabilities regional planning council selected from nominees submitted by the director.
- c. One member shall be ~~either~~ an active board member of a community mental health center or of a statewide association of persons with mental illness or of family members of persons with mental illness.
- d. One member shall be either¹ an active board member of an agency serving persons with mental retardation or of a statewide association for persons with mental retardation a developmental disability selected from nominees submitted by the Iowa association of community providers.
- e. One member shall be ~~an active member of a statewide organization for persons with a board member or employee of a provider of mental health or~~ developmental disabilities other than mental retardation services to children.
- f. One member shall be an active member of a statewide organization for persons with brain injury.
- f. Two members shall be administrators of the single entry point process established in accordance with section 331.440 selected from nominees submitted by the community services affiliate of the Iowa state association of counties.
- g. One member shall be selected from nominees submitted by the state's council of the association of federal, state, county, and municipal employees.
- h. Three members shall be service consumers or family members of service consumers. Of these members, one shall be a service consumer, one shall be a parent of a child service consumer, and one shall be a parent or other family member of a person admitted to and living at a state resource center.
- i. Two members shall be selected from nominees submitted by service advocates. Of these

¹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §238, 262 herein

members, one shall be an active member of a statewide organization for persons with brain injury.

j. In addition to the voting members, the membership shall include four members of the general assembly with one member designated by each of the following: the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives. A legislative member serves in an ex officio, nonvoting capacity and is eligible for per diem and expenses as provided in section 2.10.

Sec. 2. Section 225C.6, subsection 1, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. q. Perform analyses and other functions associated with a redesign of the mental health and developmental disability services systems for adults and for children.

Sec. 3. Section 225C.6, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If the executive branch creates a committee, task force, council, or other advisory body to consider mental health and developmental disabilities policy, services, or program options involving children or adult consumers, the commission is designated to receive and consider any report, findings, recommendations, or other work product issued by such body. The commission may address the report, findings, recommendations, or other work product in fulfilling the commission's functions and to advise the department, council on human services, governor, and general assembly concerning disability services.

Sec. 4. Section 229.24, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

If all or part of the costs associated with hospitalization of an individual under this chapter are chargeable to a county of legal settlement, the clerk of the district court shall provide to the county of legal settlement and to the county in which the hospitalization order is entered, in a form prescribed by the ~~council on human services pursuant to a recommendation of the state-county management committee established in section 331.438~~ mental health and developmental disabilities commission, the following information pertaining to the individual which would be confidential under subsection 1:

Sec. 5. Section 249A.12, subsection 5, paragraph a, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

~~The state-county management committee~~ mental health and developmental disabilities commission shall recommend to the department the actions necessary to assist in the transition of individuals being served in an intermediate care facility for persons with mental retardation, who are appropriate for the transition, to services funded under a medical assistance waiver for home and community-based services for persons with mental retardation in a manner which maximizes the use of existing public and private facilities. The actions may include but are not limited to submitting any of the following or a combination of any of the following as a request for a revision of the medical assistance waiver for home and community-based services for persons with mental retardation in effect as of June 30, 1996:

Sec. 6. Section 249A.12, subsection 5, paragraph b, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

In implementing the provisions of this subsection, ~~the state-county management committee~~ mental health and developmental disabilities commission shall consult with other states. The waiver revision request or other action necessary to assist in the transition of service provision from intermediate care facilities for persons with mental retardation to alternative programs shall be implemented by the department in a manner that can appropriately meet the needs of individuals at an overall lower cost to counties, the federal government, and the state. In addition, the department shall take into consideration significant federal changes to the medi-

cal assistance program in formulating the department's actions under this subsection. The department shall consult with the ~~state county management committee~~ mental health and developmental disabilities commission in adopting rules for oversight of facilities converted pursuant to this subsection. A transition approach described in paragraph "a" may be modified as necessary to obtain federal waiver approval. ~~The department shall report on or before January 2, 1997, to the general assembly regarding its actions under this subsection and any federal response, and shall submit an update upon receiving a federal response to the waiver request or other action taken which requires a federal response. If implementation of any of the provisions of this subsection does not require a federal waiver, the department shall implement the provisions in the fiscal year beginning July 1, 1996.~~

Sec. 7. Section 331.424A, subsection 1, Code Supplement 2001, is amended to read as follows:

1. For the purposes of this chapter, unless the context otherwise requires, "services fund" means the county mental health, mental retardation, and developmental disabilities services fund created in subsection 2. The county finance committee created in section 333A.2 shall consult with the ~~state county management committee~~ mental health and developmental disabilities commission in adopting rules and prescribing forms for administering the services fund.

Sec. 8. Section 331.438, subsection 1, paragraph c, Code Supplement 2001, is amended to read as follows:

c. "Qualified mental health, mental retardation, and developmental disabilities services" means the services specified on forms issued by the county finance committee following consultation with the ~~state county management committee~~ mental health and developmental disabilities commission.

Sec. 9. Section 331.438, subsection 4, paragraph a, Code Supplement 2001, is amended to read as follows:

a. ~~A The mental health and developmental disabilities commission shall state county management committee is created in the department of human services to make recommendations and take actions~~ for joint state and county planning, implementing, and funding of mental health, mental retardation, and developmental disabilities services, including but not limited to developing and implementing fiscal and accountability controls, establishing management plans, and ensuring that eligible persons have access to appropriate and cost-effective services.

Sec. 10. Section 331.438, subsection 4, paragraph b, Code Supplement 2001, is amended by striking the paragraph.

Sec. 11. Section 331.438, subsection 4, paragraph c, Code Supplement 2001, is amended to read as follows:

c. The ~~management committee~~ mental health and developmental disabilities commission shall do all of the following:

(1) Identify characteristics of the service system, including amounts expended, equity of funding among counties, funding sources, provider types, service availability, and equity of service availability among counties and among persons served.

(2) Assess the accuracy and uniformity of recordkeeping and reporting in the service system.

(3) Identify for each county the factors associated with inflationary growth of the service system.

(4) Identify opportunities for containing service system growth.

(5) ~~Make recommendations~~ Consider proposals for revising service system administrative rules.

(6) Consider provisions and adopt rules for counties to implement a single point of accountability to plan, budget, and monitor county expenditures for the service system. The provisions shall provide options for counties to implement the single point in collaboration with other counties.

(7) Develop criteria for annual county mental health, mental retardation, and developmental disabilities plans.

(8) ~~Make recommendations to the council on human services for~~ Adopt administrative rules identifying qualified mental health, mental retardation, and developmental disabilities service expenditures for purposes of state payment pursuant to subsection 1.

(9) ~~Make recommendations to the council on human services for administrative~~ Adopt rules for the county single entry point and clinical assessment processes required under section 331.440 and other rules necessary for the implementation of county management plans and expenditure reports required for state payment pursuant to section 331.439.

(10) Make Consider recommendations to improve the programs and cost effectiveness of state and county contracting processes and procedures, including strategies for negotiations relating to managed care. The recommendations ~~developed~~ implemented by the commission for the state and county regarding managed care shall include but are not limited to standards for limiting excess costs and profits, and for restricting cost shifting under a managed care system.

(11) Provide input, when appropriate, to the director of human services in any decision involving administrative rules which were ~~initially recommended~~ adopted by the ~~management committee~~ department of human services pertaining to the mental illness, mental retardation, and developmental disabilities services administered by counties.

(12) Identify the fiscal impact of existing or proposed legislation and administrative rules on state and county expenditures.

~~(13) No later than January 1, annually, submit a report to the governor, the general assembly, and the department of human services concerning the management committee's activities and findings.~~

~~(14) On or before December 1, 1994, submit to the governor and general assembly a methodology for the state and counties to move toward the goal of an equal partnership in the funding of mental health, mental retardation, and developmental disabilities services. The committee consideration of methodology options shall include an expenditure per consumer basis.~~

~~(15) Make recommendations to the mental health and developmental disabilities commission for~~

(13) Adopt administrative rules providing statewide standards and a monitoring methodology to determine whether cost-effective individualized services are available as required pursuant to section 331.439, subsection 1, paragraph "b".

~~(16) (14) Make Consider~~ recommendations ~~to the mental health and developmental disabilities commission for~~ and adopt administrative rules establishing statewide minimum standards for services and other support required to be available to persons covered by a county management plan under section 331.439.

~~(17) (15) Make Consider~~ recommendations ~~to the mental health and developmental disabilities commission and counties~~ for measuring and improving the quality of state and county mental health, mental retardation, and developmental disabilities services and other support.

Sec. 12. Section 331.439, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The state payment to eligible counties under this section shall be made as provided in sections 331.438 and 426B.2. A county is eligible for the state payment, as defined in section 331.438, for the fiscal year beginning July 1, 1996, and for subsequent fiscal years if the director of human services, in consultation with the ~~state county management committee~~ mental health and developmental disabilities commission, determines for a specific fiscal year that all of the following conditions are met:

Sec. 13. Section 331.439, subsection 1, paragraph b, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The county developed and implemented a county management plan for the county's mental health, mental retardation, and developmental disabilities services in accordance with the provisions of this paragraph "b". The plan shall comply with the administrative rules adopted for this purpose by the ~~council on human services~~ mental health and developmental disabilities commission and is subject to the approval of the director of human services in consultation with the ~~state-county management committee created in section 331.438~~ commission. The plan shall include a description of the county's service management provision for mental health, mental retardation, and developmental disabilities services. For mental retardation and developmental disabilities service management, the plan shall describe the county's development and implementation of a managed system of cost-effective individualized services and shall comply with the provisions of paragraph "d". The goal of this part of the plan shall be to assist the individuals served to be as independent, productive, and integrated into the community as possible. The service management provisions for mental health shall comply with the provisions of paragraph "c". A county is subject to all of the following provisions in regard to the county's management plan and planning process:

Sec. 14. Section 331.439, subsection 1, paragraph b, subparagraph (1), Code 2001, is amended to read as follows:

(1) The county shall have in effect an approved policies and procedures manual for the county's services fund. The county management plan shall be defined in the manual. The manual submitted by the county as part of the county's management plan for the fiscal year beginning July 1, 2000, as approved by the director of human services, shall remain in effect, subject to amendment. An amendment to the manual shall be submitted to the department of human services at least forty-five days prior to the date of implementation. Prior to implementation of any amendment to the manual, the amendment must be approved by the director of human services in consultation with the ~~state-county management committee~~ mental health and developmental disabilities commission.

Sec. 15. Section 331.439, subsection 1, paragraph c, subparagraph (2), unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~The basis for determining whether a~~ A managed care system for mental health proposed by a county is comparable to a mental health managed care contractor approved by the department of human services shall include but is not limited to all of the following elements which shall be specified in administrative rules adopted by the ~~council on human services in consultation with the state-county management committee~~ mental health and developmental disabilities commission:

Sec. 16. Section 331.439, subsection 1, paragraph d, Code 2001, is amended to read as follows:

d. For mental retardation and developmental disabilities services management, the county must either develop and implement a managed system of care which addresses a full array of appropriate services and cost-effective delivery of services or contract with a state-approved managed care contractor or contractors. Any system or contract implemented under this paragraph shall incorporate a single entry point and clinical assessment process developed in accordance with the provisions of section 331.440. The elements of the county managed system of care ~~and the state-approved managed care contract or contracts~~ shall be specified in rules developed by the department of human services in consultation with the ~~state-county management committee~~ and adopted by the ~~council on human services~~ mental health and developmental disabilities commission.

Sec. 17. Section 331.439, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. Based upon information contained in county management plans and budgets and pro-

~~posals made by representatives of counties, the state-county management committee~~ mental health and developmental disabilities commission shall recommend an allowed growth factor adjustment to the governor by November 15 for the fiscal year which commences two years from the beginning date of the fiscal year in progress at the time the recommendation is made. The allowed growth factor adjustment shall address costs associated with new consumers of service, service cost inflation, and investments for economy and efficiency. In developing the service cost inflation recommendation, the ~~committee~~ commission shall consider the cost trends indicated by the gross expenditure amount reported in the expenditure reports submitted by counties pursuant to subsection 1, paragraph "a". The governor shall consider the ~~committee's~~ commission's recommendation in developing the governor's recommendation for an allowed growth factor adjustment for such fiscal year. The governor's recommendation shall be submitted at the time the governor's proposed budget for the succeeding fiscal year is submitted in accordance with chapter 8.

Sec. 18. Section 331.440, subsection 4, Code 2001, is amended to read as follows:

4. ~~The council on human services~~ mental health and developmental disabilities commission shall consider the recommendations of ~~the state-county management committee established in section 331.438~~ county representatives in adopting rules outlining standards and requirements for implementation of the single entry point and clinical assessment processes on the date required by subsection 2. The rules shall permit counties options in implementing the process based upon a county's consumer population and available service delivery system.

Sec. 19. Section 426B.4, Code 2001, is amended to read as follows:

426B.4 RULES.

~~The council on human services~~ mental health and developmental disabilities commission shall consult with ~~the state-county management committee created in section 331.438~~ county representatives and the director of human services in prescribing forms and adopting rules pursuant to chapter 17A to administer this chapter.

Sec. 20. Section 426B.5, subsection 2, paragraph c, Code Supplement 2001, is amended to read as follows:

c. A risk pool board is created. The board shall consist of two county supervisors, two county auditors, a member of ~~the state-county management committee created in section 331.438~~ mental health and developmental disabilities commission who was not appointed by the Iowa state association of counties is not a member of a county board of supervisors, a member of the county finance committee created in chapter 333A who is not an elected official, a representative of a provider of mental health or developmental disabilities services selected from nominees submitted by the Iowa association of community providers, and two single entry point process administrators, all appointed by the governor, and one member appointed by the director of human services. All members appointed by the governor shall be subject to confirmation by the senate. Members shall serve for three-year terms. A vacancy shall be filled in the same manner as the original appointment. Expenses and other costs of the risk pool board members representing counties shall be paid by the county of origin. Expenses and other costs of risk pool board members who do not represent counties shall be paid from a source determined by the governor. Staff assistance to the board shall be provided by the department of human services and counties. Actuarial expenses and other direct administrative costs shall be charged to the pool.

Sec. 21. CODE EDITOR DIRECTIVE. The Code editor shall amend the headnote to section 331.438 to remove the reference to "management committee" and instead reference the mental health and developmental disabilities commission or utilize other language as determined to be most appropriate by the Code editor.

Sec. 22. ADOPTED RULES. Notwithstanding the transfer in this Act of the authority to

adopt rules from the council on human services to the mental health and developmental disabilities commission, a rule adopted by the council on human services prior to July 1, 2002, shall remain in effect unless amended or repealed by the commission or pursuant to other executive or legislative branch action.

Sec. 23. COMMISSION TRANSITION. Effective November 1, 2002, the terms of all voting members of the mental health and developmental disabilities commission shall terminate. The governor shall appoint voting members to the mental health and developmental disabilities commission for terms commencing November 1, 2002, to reflect the requirements of section 225C.5, as amended by this Act, including but not limited to the requirement for staggered terms.

Sec. 24. RESIDENT ADVOCATE COMMITTEES — REPORT. The mental health and developmental disabilities commission in consultation with the state long-term care resident's advocate and the governor's developmental disabilities council shall submit a report to the general assembly by January 1, 2003, regarding the continuation of resident advocate committees for residential care facilities licensed to serve persons with mental illness or mental retardation.

Sec. 25. APPLICABILITY. The requirements of section 225C.6, subsection 3, as enacted by this Act, apply to the findings, report, recommendations, or other work product issued by a committee, task force, council, or other advisory body created prior to July 1, 2002.

Approved May 2, 2002

CHAPTER 1147

PROTECTION OF WILD ANIMALS

H.F. 2616

AN ACT relating to the time of possession of deer venison, increasing the minimum fine for unlawful taking, possessing, injuring, or transporting protected species and game, and subjecting violators to a penalty.

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

Section 1. Section 481A.32, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Whoever shall take, catch, kill, injure, destroy, have in possession, buy, sell, ship, or transport any frogs, fish, mussels, birds, their nests, eggs, or plumage, fowls, game, or animals or their fur or raw pelt in violation of the provisions of this chapter or of administrative rules of the commission or whoever shall use any device, equipment, seine, trap, net, tackle, firearm, drug, poison, explosive, or other substance or means, the use of which is prohibited by this chapter, or use the same at a time, place, or in a manner or for a purpose prohibited, or do any other act in violation of the provisions of this chapter or of administrative rules of the commission for which no other punishment is provided, is guilty of a simple misdemeanor and shall be assessed a minimum fine of ~~ten~~ twenty dollars for each offense.

Sec. 2. Section 481A.57, Code 2001, is amended to read as follows:

481A.57 POSSESSION AND STORAGE.

A person having lawful possession of game or fur-bearing animals or their pelts, except deer venison, may hold them for not to exceed thirty days after the close of the open season for such game or furbearers. A person having lawful possession of deer venison which is taken with a valid deer hunting license, may hold the deer venison from the date of taking until the following September 1. From September 1 until the first day of the next deer open season for which the person holds a valid deer hunting license, the person shall not possess more than twenty-five pounds of deer venison. Any person may possess up to twenty-five pounds of deer venison if the deer was obtained from a lawful source. A permit to hold for a longer period may be granted by the department.

Sec. 3. Section 805.8B, subsection 3, paragraph e, Code Supplement 2001, is amended to read as follows:

e. For violations of sections 481A.57, 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.

Approved May 2, 2002

CHAPTER 1148

REGULATION OF MILK AND MILK PRODUCTS

H.F. 2617

AN ACT relating to the regulation of milk and milk products, by providing for permits, fees, and penalties, making penalties applicable, and providing an effective date.

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

Section 1. Section 192.111, subsection 1, Code 2001, is amended to read as follows:

1. The department shall issue and renew permits under this subsection as provided by rules adopted by the department. A permit, unless earlier revoked, is valid until the second July 1 following the issuance or renewal. The department shall establish and assess the fees for the issuance and renewal of permits annually as provided in this subsection. A permit fee for the renewal period shall be due on the date that the permit expires. Except as otherwise provided in this section, all of the following shall apply:

a. The following persons must receive a permit ~~or license~~ from and pay an accompanying permit fee to the department and ~~pay the following fees:~~

(1) A milk plant ~~which is not other than~~ a receiving station which must obtain a milk plant permit and pay a permit fee not greater than ~~one~~ two thousand dollars ~~per year~~.

(2) A transfer station which must obtain a transfer station permit and pay a permit fee not greater than ~~two~~ four hundred dollars ~~per year~~.

(3) A receiving station ~~which is not other than~~ a milk plant which must obtain a receiving station permit and pay a permit fee of not greater than ~~two~~ four hundred dollars ~~per year~~.

(4) A milk hauler which must obtain a license milk hauler permit and pay a license permit fee not greater than ~~ten~~ twenty dollars ~~per year~~.

(5) A milk grader which must obtain a license a¹ milk grader permit and pay a license fee of not greater than ~~ten~~ twenty dollars ~~per year~~.

¹ According to enrolled Act

b. ~~Each A bulk milk tanker shall be licensed by must operate pursuant to a bulk milk tanker permit obtained from the department, and The person obtaining the permit must pay a license permit fee not greater than twenty-five fifty dollars per year. However, a license fee shall not be required for a vehicle used for the collection of milk for manufacturing dairy products which has paid a license fee for the same period pursuant to section 194.19.~~

~~The secretary shall establish the fees provided in this subsection annually. The fees shall be paid on July 1 of each year.~~

c. ~~The following fees, which shall be in addition to any fee required to accompany a permit as required in this section, shall be assessed:~~

~~(1) A reinspection fee that shall be paid by a person holding a permit under this subsection for which reinspection is required as a condition of retaining the permit. The amount of the reinspection fee shall not be more than forty dollars for each such reinspection.~~

~~(2) A resealing fee that shall be paid by a person holding a milk plant permit, for resealing a milk plant's pasteurizer. The amount of the resealing fee shall not be more than one hundred dollars for each such resealing.~~

d. ~~A person who renews a permit and submits any accompanying renewal fee under this subsection more than thirty days after the date that the renewal period expires shall pay a late fee. The amount of the late fee shall be equal to ten percent of the permit renewal fee. However, in no instance shall the late fee be less than twenty-five dollars.~~

Sec. 2. Section 192.111, subsection 3, paragraph a, Code 2001, is amended to read as follows:

a. ~~Fees collected under this section and sections 192.133, 194.14, 194.19, and section 194.20 shall be deposited in the general fund of the state. All moneys deposited under this section are appropriated to the department for the costs of inspection, sampling, analysis, and other expenses necessary for the administration of this chapter and chapter 194, and shall be subject to the requirements of section 8.60.~~

Sec. 3. Section 192.112, unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~The department shall adopt rules pursuant to chapter 17A which provide for licensing milk haulers, milk graders, and bulk milk tankers as provided in section 192.111. The department shall establish standards of operation for milk haulers, milk graders, and bulk milk tankers. The standards shall include, but need not be limited to, all of the following:~~

Sec. 4. Section 192.113, subsection 1, Code 2001, is amended to read as follows:

1. a. ~~A person shall not act as a milk hauler unless the person is licensed as a milk hauler holds a milk hauler permit required pursuant to section 192.111. A person shall not solicit another person to act as a milk hauler or procure or obtain the services of a person to act as a milk hauler unless the person solicited or from whom the services are procured or obtained is licensed as a milk hauler pursuant to section 192.111 holds a milk hauler permit.~~

b. ~~A person shall not act as a milk grader unless the person is licensed as a milk grader holds a milk grader permit required pursuant to section 192.111. A person shall not solicit another person to act as a milk grader or procure or obtain the services of a person to act as a milk grader, unless the person solicited or from whom the services are procured or obtained is licensed as a milk grader pursuant to section 192.111 holds a milk grader permit.~~

c. ~~A person shall not operate a bulk milk tanker unless the bulk milk tanker is licensed operates pursuant to a bulk milk tanker permit required pursuant to section 192.111. A person shall not solicit another person to operate a bulk milk tanker or procure or obtain the services of a person to operate a bulk milk tanker, unless the bulk milk tanker is licensed pursuant to section 192.111 operates pursuant to a bulk milk tanker permit.~~

Sec. 5. Section 194.3, Code 2001, is amended to read as follows:

194.3 DEFINITIONS.

For the purpose of this chapter:

1. “Bulk milk tanker” means all of the following:
 - a. A bulk milk tanker as defined in section 192.101A.
 - b. A vehicle that transports milk stored in milk cans.
2. “Milk grader” means the same as defined in section 192.101A.
3. “Milk hauler” means the same as defined in section 192.101A.
- ~~1.~~ 4. “Milk processing plant” means an establishment to which receiving milk of from diverse producers is delivered where said products are manufactured, if the milk is manufactured into butter, cheese, dry milk or other dairy products for commercial purposes.
- ~~2.~~ 5. “Milk used for manufacturing purposes” means milk or milk products manufactured into butter, cheese, ungraded dry milk, or other dairy products except milk and milk products as defined in the Grade “A” Pasteurized Milk Ordinance provided in section 192.102.
- ~~3.~~ 6. “Organoleptic examination or grading of milk” means examination by the senses of sight, smell, and taste.
- ~~4.~~ “Person” includes individuals, partnerships, corporations, and associations.

Sec. 6. NEW SECTION. 194.3A PERMIT REQUIREMENTS.

1. The department shall issue and renew permits under this chapter as provided by rules adopted by the department. The following persons must receive a permit from and pay a permit fee to the department:
 - a. A milk hauler which must obtain a milk hauler permit.
 - b. A milk grader which must obtain a milk grader permit.
 - c. A bulk milk tanker which must operate pursuant to a bulk milk tanker permit.
2. The department shall provide for the issuance and renewal of permits under this section as provided by rules adopted by the department, in the same manner as provided in section 192.111. The amount of the permit fee shall be the same as provided in section 192.111. A person shall not be required to obtain a milk hauler permit, milk grader permit, or bulk milk tanker permit under this section, if the person has obtained the same permit under section 192.111.
3. The department may suspend or revoke a permit issued or renewed under this section in the same manner that the department may suspend or revoke a permit issued or renewed under section 192.111.
4. A person who does any of the following is in violation of this section:
 - a. (1) Acts as a milk hauler or milk grader, unless the person holds a milk hauler permit or milk grader permit as required in this section.
 - (2) Solicits another person to act as a milk hauler or milk grader or procures the services of a person to act as a milk hauler or milk grader, unless the person solicited or from whom the services are procured holds a milk hauler permit or milk grader permit as required in this section.
 - b. (1) Operates a bulk milk tanker, unless the bulk milk tanker operates pursuant to a bulk milk tanker permit as required in this section.
 - (2) Solicits another person to operate a bulk milk tanker or procures the services of a person to operate a bulk milk tanker, unless the bulk milk tanker operates pursuant to a bulk milk tanker permit as required in this section.

Sec. 7. Section 194.18, Code 2001, is amended to read as follows:

194.18 COLORING UNLAWFUL MILK.

A person who holds a milk hauler permit or a milk grader licensed permit pursuant to section 192.112 192.111 may mix a harmless coloring matter in unlawful milk as provided in section 194.9 to prevent the unlawful milk from being processed and used in any form for human consumption.

Sec. 8. Section 194.25, Code 2001, is amended to read as follows:

194.25 PENALTY VIOLATIONS AND PENALTIES.

1. Any Except as provided in subsection 2, a person who, in person or by an agent or employee, willfully violates any requirement of this chapter shall be guilty of a simple misdemeanor.

2. A person in violation of section 194.3A is subject to the same civil penalty as applied to that person as provided in section 192.113.

Sec. 9. Sections 192.131 through 192.137, section 192.142, sections 194.12 through 194.16, and section 194.19, Code 2001, are repealed.

Sec. 10. STAGGERED FEE SYSTEM — IMPLEMENTATION.

1. Except as provided in subsection 2, the department of agriculture and land stewardship shall treat licenses that would otherwise require renewal under section 192.111 or sections 194.12 through 194.14, Code 2001, as permits requiring renewal as provided in section 192.111, as amended by this Act, and section 194.3A, as enacted in this Act.

2. Notwithstanding section 192.111, as amended by this Act, and section 194.3A, as enacted in this Act, the department shall provide that fifty percent of the permits issued or renewed in 2003 under these sections shall expire on July 1, 2003, and the remainder shall expire on July 1, 2004. Persons obtaining permits that expire on July 1, 2003, shall pay a permit fee of one-half of the amount otherwise required under those sections.

3. Notwithstanding section 192.111, as amended by this Act, and section 194.3A, as enacted in this Act, requiring that the department adopt rules to establish fees for permits as provided in those sections, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following shall apply:

a. For fifty percent of the permits issued or renewed under chapters 192 and 194, that expire on July 1, 2003, the amount of the fee for a permit shall be the same as required for a comparable license or permit that applied under those chapters on June 30, 2002.

b. For fifty percent of the permits issued or renewed under chapters 192 and 194, that expire on July 1, 2004, the amount of the fee for a permit shall be double the amount otherwise required for a comparable license or permit that applied under these chapters on June 30, 2002.

Sec. 11. EFFECTIVE DATE — APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment. The provisions of this Act become applicable on and after July 1, 2002. However, the department may adopt rules in preparation for the Act's applicability on and after the Act's effective date.

Approved May 2, 2002

CHAPTER 1149

FARMERS MARKETS

H.F. 2620

AN ACT regulating farmers markets, providing for fees, making penalties applicable, and providing an effective date.

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

Section 1. Section 137F.1, subsection 8, paragraph e, Code Supplement 2001, is amended to read as follows:

e. Premises ~~which operate as~~ where a person operates a farmers market, if the person does not sell or distribute potentially hazardous food from the premises.

Sec. 2. Section 137F.6, Code Supplement 2001,¹ is amended by adding the following new subsection:

NEW SUBSECTION. 7. For a farmers market where potentially hazardous food is sold or distributed, one seasonal license fee of one hundred dollars for each vendor on a countywide basis.

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

Approved May 2, 2002

CHAPTER 1150

TAX ADMINISTRATION AND RELATED MATTERS

S.F. 2305

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, property, motor fuel, and special fuel.

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

Section 1. Section 331.401, subsection 1, paragraph k, Code 2001, is amended to read as follows:

k. Levy taxes as certified to it by tax-certifying bodies in the county, in accordance with the statutes authorizing the levies and in accordance with chapter 24 and sections 444.1 to 444.8, and levy taxes as required in chapters 430A, 433, 434, 436, 437, and 438.

Sec. 2. Section 331.512, subsection 8, Code 2001, is amended by striking the subsection.

Sec. 3. Section 420.207, Code 2001, is amended to read as follows:

420.207 TAXATION IN GENERAL.

Sections 426A.11 through 426A.15, 427.1, 427.8 to 427.11, 428.4, 428.20, 428.22, 428.23, 436.10, 436.11, 437.1, 437.3, 441.21, 443.1 to 443.3, 444.2 to 444.5, and 447.9 to 447.13, so far as applicable, apply to cities acting under special charters.

Sec. 4. Section 422.7, subsection 4, Code Supplement 2001, is amended to read as follows:

4. Subtract ~~installment~~ payments received by a beneficiary under an annuity which was purchased under an employee's pension or retirement plan when the commuted value of said ~~the~~ installments has been included as a part of the decedent employee's estate for Iowa inheritance tax purposes.

Sec. 5. Section 422.25, subsection 5, Code 2001, is amended to read as follows:

5. A person or withholding agent required to supply information, to pay tax, or to make, sign, or file a ~~semimonthly, monthly, or quarterly~~ deposit form or return or ~~supplemental return required by this division~~, who willfully makes a false or fraudulent ~~semimonthly, monthly, or quarterly~~ deposit form or return, or willfully fails to pay the tax, supply the information, or make, sign, or file the ~~semimonthly, monthly, or quarterly~~ deposit form or return, at the time or times required by law, is guilty of a fraudulent practice.

¹ Code 2001 probably intended

Sec. 6. Section 422.43, subsection 11, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

The following enumerated services are subject to the tax imposed on gross taxable services: alteration and garment repair; armored car; vehicle repair; battery, tire, and allied; investment counseling; service charges of all financial institutions; barber and beauty; boat repair; vehicle wash and wax; carpentry; roof, shingle, and glass repair; dance schools and dance studios; dating services; dry cleaning, pressing, dyeing, and laundering; electrical and electronic repair and installation; rental of tangible personal property, except manufactured or mobile homes which are tangible personal property; excavating and grading; farm implement repair of all kinds; flying service; furniture, rug, upholstery repair and cleaning; fur storage and repair; golf and country clubs and all commercial recreation; house and building moving; household appliance, television, and radio repair; jewelry and watch repair; limousine service, including driver; machine operator; machine repair of all kinds; motor repair; motorcycle, scooter, and bicycle repair; oilers and lubricators; office and business machine repair; painting, papering, and interior decorating; parking facilities; pipe fitting and plumbing; wood preparation; licensed executive search agencies; private employment agencies, excluding services for placing a person in employment where the principal place of employment of that person is to be located outside of the state; sewage services for nonresidential commercial operations; sewing and stitching; shoe repair and shoeshine; sign construction and installation; storage of household goods, mini-storage, and warehousing of raw agricultural products; swimming pool cleaning and maintenance; taxidermy services; telephone answering service; test laboratories, including mobile testing laboratories and field testing by testing laboratories, and excluding tests on humans or animals; termite, bug, roach, and pest eradicators; tin and sheet metal repair; turkish baths, massage, and reducing salons, excluding services provided by massage therapists licensed under chapter 152C; weighing; welding; well drilling; wrapping, packing, and packaging of merchandise other than processed meat, fish, fowl, and vegetables; wrecking service; wrecker and towing; pay television; campgrounds; carpet and upholstery cleaning; gun and camera repair; janitorial and building maintenance or cleaning; lawn care, landscaping, and tree trimming and removal; pet grooming; reflexology; security and detective services; tanning beds or salons; and water conditioning and softening.

Sec. 7. Section 422.45, subsection 3, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

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 nonprofit private educational institution, and where the entire proceeds from the sales, rental, or services are expended for any of the following purposes:

Sec. 8. Section 422.51, subsection 5, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A business required to file a consolidated sales tax return shall file a form entitled "schedule of consolidated business locations" with its quarterly sales tax return that shows the taxpayer's consolidated permit number, the permit number for each Iowa business location, the state sales tax amount by business location, and the amount of state sales tax due on goods consumed that are not assigned to a specific business location. Consolidated quarterly sales tax returns that are not accompanied by the schedule of consolidated business locations form are considered incomplete and are subject to penalty under section 421.27.

Sec. 9. Section 423.14, Code 2001, is amended to read as follows:

423.14 LIABILITY OF USER.

Any person who uses any property or services enumerated in section 422.43 upon which the

tax ~~herein~~ imposed under this chapter has not been paid, either to the county treasurer or to a retailer or direct to the department as ~~herein~~ provided in this chapter, shall be liable ~~therefor~~ for the payment of tax, and shall on or before the last day of the month next succeeding each quarterly period pay the tax ~~herein~~ imposed upon all such property and services used by the person during the preceding quarterly period in ~~such~~ the manner and accompanied by such returns as the director shall prescribe. All of the provisions of section 423.13 with reference to ~~such~~ the returns and payments shall be applicable to the returns and payments ~~herein~~ required under this section.

Sec. 10. Section 427A.1, subsection 1, paragraph h, Code Supplement 2001, is amended to read as follows:

h. Property assessed by the department of revenue and finance pursuant to sections 428.24 to 428.29, or chapters 433, 434, 437, 437A, and ~~436 to~~ 438.

Sec. 11. Section 427B.17, subsection 5, unnumbered paragraph 1, Code 2001, is amended to read as follows:

This section shall not apply to property assessed by the department of revenue and finance pursuant to sections 428.24 to 428.29, or chapters 433, 434, 437, 437A, and ~~436 to~~ 438, and such property shall not receive the benefits of this section.

Sec. 12. Section 429.1, Code 2001, is amended to read as follows:

429.1 NOTICE OF ASSESSMENT.

The director of revenue and finance shall, at the time of making the assessment of property as provided in chapters 428, 433, 434, ~~436~~, 437, and 438, inform the person assessed, by mail, of the valuation put upon the taxpayer's property. The notice shall contain a notice of the taxpayer's right of appeal to the state board of tax review as provided in section 429.2.

Sec. 13. Section 441.21, subsections 5, 9, and 10, Code Supplement 2001, are amended to read as follows:

5. For valuations established as of January 1, 1979, commercial property and industrial property, excluding properties referred to in section 427A.1, subsection 7, shall be assessed as a percentage of the actual value of each class of property. The percentage shall be determined for each class of property by the director of revenue for the state in accordance with the provisions of this section. For valuations established as of January 1, 1979, the percentage shall be the quotient of the dividend and divisor as defined in this section. The dividend for each class of property shall be the total actual valuation for each class of property established for 1978, plus six percent of the amount so determined. The divisor for each class of property shall be the valuation for each class of property established for 1978, as reported by the assessors on the abstracts of assessment for 1978, plus the amount of value added to the total actual value by the revaluation of existing properties in 1979 as equalized by the director of revenue pursuant to section 441.49. For valuations established as of January 1, 1979, property valued by the department of revenue pursuant to chapters 428, 433, ~~436~~, 437, and 438 shall be considered as one class of property and shall be assessed as a percentage of its actual value. The percentage shall be determined by the director of revenue in accordance with the provisions of this section. For valuations established as of January 1, 1979, the percentage shall be the quotient of the dividend and divisor as defined in this section. The dividend shall be the total actual valuation established for 1978 by the department of revenue, plus ten percent of the amount so determined. The divisor for property valued by the department of revenue pursuant to chapters 428, 433, ~~436~~, 437, and 438 shall be the valuation established for 1978, plus the amount of value added to the total actual value by the revaluation of the property by the department of revenue as of January 1, 1979. For valuations established as of January 1, 1980, commercial property and industrial property, excluding properties referred to in section 427A.1, subsection 7, shall be assessed at a percentage of the actual value of each class of property. The percentage shall be determined for each class of property by the director of revenue for

the state in accordance with the provisions of this section. For valuations established as of January 1, 1980, the percentage shall be the quotient of the dividend and divisor as defined in this section. The dividend for each class of property shall be the dividend as determined for each class of property for valuations established as of January 1, 1979, adjusted by the product obtained by multiplying the percentage determined for that year by the amount of any additions or deletions to actual value, excluding those resulting from the revaluation of existing properties, as reported by the assessors on the abstracts of assessment for 1979, plus four percent of the amount so determined. The divisor for each class of property shall be the total actual value of all such property in 1979, as equalized by the director of revenue pursuant to section 441.49, plus the amount of value added to the total actual value by the revaluation of existing properties in 1980. The director shall utilize information reported on the abstracts of assessment submitted pursuant to section 441.45 in determining such percentage. For valuations established as of January 1, 1980, property valued by the department of revenue pursuant to chapters 428, 433, 436, 437, and 438 shall be assessed at a percentage of its actual value. The percentage shall be determined by the director of revenue in accordance with the provisions of this section. For valuations established as of January 1, 1980, the percentage shall be the quotient of the dividend and divisor as defined in this section. The dividend shall be the total actual valuation established for 1979 by the department of revenue, plus eight percent of the amount so determined. The divisor for property valued by the department of revenue pursuant to chapters 428, 433, 436, 437, and 438 shall be the valuation established for 1979, plus the amount of value added to the total actual value by the revaluation of the property by the department of revenue as of January 1, 1980. For valuations established as of January 1, 1981, and each year thereafter, the percentage of actual value as equalized by the director of revenue and finance as provided in section 441.49 at which commercial property and industrial property, excluding properties referred to in section 427A.1, subsection 7, shall be assessed shall be calculated in accordance with the methods provided herein, except that any references to six percent in this subsection shall be four percent. For valuations established as of January 1, 1981, and each year thereafter, the percentage of actual value at which property valued by the department of revenue and finance pursuant to chapters 428, 433, 436, 437, and 438 shall be assessed shall be calculated in accordance with the methods provided herein, except that any references to ten percent in this subsection shall be eight percent. Beginning with valuations established as of January 1, 1979, and each year thereafter, property valued by the department of revenue and finance pursuant to chapter 434 shall also be assessed at a percentage of its actual value which percentage shall be equal to the percentage determined by the director of revenue and finance for commercial property, industrial property, or property valued by the department of revenue and finance pursuant to chapters 428, 433, 436, 437, and 438, whichever is lowest.

9. Not later than November 1, 1979, and November 1 of each subsequent year, the director shall certify to the county auditor of each county the percentages of actual value at which residential property, agricultural property, commercial property, industrial property, and property valued by the department of revenue and finance pursuant to chapters 428, 433, 434, 436, 437, and 438 in each assessing jurisdiction in the county shall be assessed for taxation. The county auditor shall proceed to determine the assessed values of agricultural property, residential property, commercial property, industrial property, and property valued by the department of revenue and finance pursuant to chapters 428, 433, 434, 436, 437, and 438 by applying such percentages to the current actual value of such property, as reported to the county auditor by the assessor, and the assessed values so determined shall be the taxable values of such properties upon which the levy shall be made.

10. The percentage of actual value computed by the director for agricultural property, residential property, commercial property, industrial property and property valued by the department of revenue and finance pursuant to chapters 428, 433, 434, 436, 437, and 438 and used to determine assessed values of those classes of property does not constitute a rule as defined in section 17A.2, subsection 11.

Sec. 14. Section 441.73, subsection 1, Code 2001, is amended to read as follows:

1. A litigation expense fund is created in the state treasury. The litigation expense fund shall be used for the payment of litigation expenses incurred by the state to defend property valuations established by the director of revenue and finance pursuant to section 428.24 and chapters 430A, 433, 434, 436, 437, 437A, and 438, and for the payment of litigation expenses incurred by the state to defend the imposition of replacement taxes and statewide property taxes under chapter 437A.

Sec. 15. Section 452A.3, subsection 3, Code Supplement 2001, is amended to read as follows:

3. For the privilege of operating motor vehicles or aircraft in this state, there is imposed an excise tax on the use of special fuel in a motor vehicle or aircraft. The tax rate on special fuel for diesel engines of motor vehicles is twenty-two and one-half cents per gallon. The rate of tax on special fuel for aircraft is three cents per gallon. On all other special fuel, unless otherwise specified in this section, the per gallon rate is the same as the motor fuel tax. Indelible dye meeting United States environmental protection agency and internal revenue service regulations must be added to fuel before or upon withdrawal at a terminal or refinery rack for that fuel to be exempt from tax and the dyed fuel may be used only for an exempt purpose.

Sec. 16. Section 452A.3, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. For liquefied petroleum gas used as a special fuel, the rate of tax shall be twenty cents per gallon.

Sec. 17. Section 452A.15, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The director may require by rule that reports be filed by electronic transmission.

Sec. 18. Section 452A.17, subsection 3, paragraph a, Code Supplement 2001, is amended to read as follows:

a. A claim for refund shall not be allowed unless the claimant has accumulated sixty dollars in credits for one calendar year. A claim for refund may be filed any time the sixty dollar minimum has been met within the calendar year. If the sixty dollar minimum has not been met in the calendar year, the credit shall be claimed on the claimant's income tax return unless the taxpayer is not required to file an income tax return in which case a refund shall be allowed. Once the sixty dollar minimum has been met, the claim for refund must be filed within one year three years following the end of the month in which the earliest invoice is dated.

Sec. 19. Section 452A.19, unnumbered paragraph 2, Code 2001, is amended to read as follows:

A person whose refund permit is revoked for cause may not obtain another refund permit for a period of one year after the revocation. A refund permit under which ~~no~~ a refund is not claimed for a period of ~~one year~~ three years or a refund permit whose holder has moved from the county in which the holder resided at the time of application for the permit is invalid subject to reinstatement or issuance of a new permit upon application as provided in section 452A.18.

Sec. 20. Section 452A.21, unnumbered paragraph 3, Code 2001, is amended to read as follows:

A refund shall not be issued unless the claim is filed within ~~one year~~ three years following the end of the month during which the ethanol blended gasoline was actually blended. An income tax credit is not allowed under this section.

Sec. 21. Section 452A.72, unnumbered paragraph 2, Code 2001, is amended to read as follows:

A refund shall not be made under this section unless a written claim setting forth the circum-

stances for which the refund should be allowed is filed with the appropriate state agency within ~~one year~~ three years from the date of the payment of the taxes erroneously or illegally collected or paid.

Sec. 22. Sections 422.101, 422.102, 422.103, and 422.104, Code 2001, are repealed.

Sec. 23. Chapter 436, Code 2001, is repealed.

Approved May 6, 2002

CHAPTER 1151

TAX ADMINISTRATION — ADDITIONAL RELATED MATTERS

H.F. 2622

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, property, motor fuel, special fuel, and inheritance taxes, directing a study, and including effective and retroactive applicability date provisions.

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

Section 1. Section 404.4, unnumbered paragraph 2, Code Supplement 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 or the following two assessment years, in which case the exemption is allowed for the total number of years in the exemption schedule. ~~However,~~ 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. 2. NEW SECTION. 421.17B ADMINISTRATIVE WAGE ASSIGNMENT COOPERATIVE AGREEMENT.

1. DEFINITIONS. As used in this section, unless the context otherwise requires:

a. "Employer" means any person or entity that pays an obligor to do a specific task. "Employer" only includes such a person or entity in an employer-employee relationship and does not include an obligor acting as a contractor, distributor, agent, or in any representative capacity in which the obligor receives any form of consideration.

b. "Employment" means the performance of personal services for another. "Employment" only includes parties in an employer-employee relationship and does not include one acting as a self-employer, contractor, distributor, agent, or in any representative capacity.

c. "Facility" means the centralized debt collection facility of the department of revenue and finance established pursuant to section 421.17, subsection 34.

d. "Obligor" means a person who is indebted to the state or a state agency for any delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the state or indebtedness being collected by the state.

e. "Wage" means any form of compensation due to an obligor. "Wage" includes, but is not limited to, wages, salary, bonus, commission, or other payment directly or indirectly related to employment. If a wage is assigned to the facility, wage only includes a payment in the form of money.

2. PURPOSE AND USE.

a. Notwithstanding other statutory provisions which provide for the execution, attachment, garnishment, or levy against accounts, the facility may utilize the process established in this section to collect delinquent accounts, charges, fees, loans, taxes, or other indebtedness due the facility or being collected by the facility provided all administrative remedies have been waived or exhausted by the obligor. Any exemptions or exceptions which specifically apply to enforcement of such obligations also apply to this section.

Administrative wage assignment under this section is the equivalent of condemning funds under chapter 642.

The administrative wage assignment is to be considered an additional means of collection by the facility and not an exclusive means of collection. If the use of an administrative wage assignment is not successful in collecting an outstanding debt due the facility, the facility may use the collection provisions set forth in chapters 626 and 642.

b. An obligor is subject to this section if the obligor's debt is being collected by the facility.

c. Any amount forwarded to the facility by an employer under this section shall not exceed the delinquent or accrued amount of the obligor's debt being collected by the facility.

3. NOTICE TO THE OBLIGOR.

a. The facility may proceed under this section only if a ten-day notice has been provided to the obligor. Notice by the facility may be by regular mail to the last known address of the obligor, notifying the obligor that the obligor is subject to this section. If the facility determines that collection of the debt may be in jeopardy, the facility may request that the employer deliver notice of the wage assignment simultaneous with the remainder of or in lieu of the obligor's compensation due from the employer.

The facility may obtain one or more wage assignments of an obligor who is subject to this section. If the obligor has more than one employer, the facility may receive wage assignments from one or all of the employers until the full debt obligation of the obligor is satisfied. If an obligor has more than one employer, the facility shall give notice to all employers that the facility seeks to have an assignment of wages.

b. The notice from the facility to the obligor shall contain all of the following:

(1) The name and social security number of the obligor.

(2) A statement that the obligor is believed to have employment with the stated employer.

(3) A statement that pursuant to the provisions of this section, the obligor's wages will be assigned to the facility for payment of the specified debts and that the employer is authorized and required to forward moneys to the facility.

(4) The maximum amount to be forwarded by the employer, which shall not exceed the delinquent or accrued amount of debt being collected by or owed to the facility by the obligor.

(5) The prescribed time frames the employer must meet in forwarding any amounts.

(6) A statement that any challenge to the action must be in writing and must be received by the facility within ten days of the date of the notice to the obligor.

(7) The address of the facility and the account number utilized by the facility for the obligor.

(8) A telephone number, address, and contact name of the facility initiating the action.

4. VERIFICATION OF EMPLOYMENT AND IMMUNITY FROM LIABILITY.

a. The facility may contact an employer to obtain verification of employment, and any specific information from the employer that the facility needs to initiate, effectuate, or maintain collection of the obligation. Contact with an employer may be by telephone, fax, or by written

communication. The employer may require proof of authority from the person from the facility and the telephone number of the authorized person from the facility before releasing an obligor's employment information by telephone.

b. The employer is immune from any civil or criminal liability for information released by the employer to the facility pursuant to this section.

5. COSTS. The facility is not liable for any costs incurred or imposed for initiating, effectuating, or maintaining an administrative wage assignment under this section. Such costs will be the sole responsibility of the obligor and will be added to the amount to be collected by the facility.

6. ADMINISTRATIVE WAGE ASSIGNMENT — NOTICE TO THE EMPLOYER.

a. If an obligor is subject to this section, the facility may initiate an administrative wage assignment to have compensation due the obligor to be assigned by the employer to the facility up to the amount of the full debt to be collected by the facility.

b. The facility shall send a notice to the employer within fourteen days of sending notice of the wage assignment to the obligor. The notice shall inform the employer of the amount to be assigned to the facility from each wage, salary, or payment period that is due the obligor. The facility may receive assignment of up to one hundred percent of the obligor's disposable income, salary, or payment for any given period until the full obligation to the facility is paid in full.

c. The notice to the employer shall contain all of the following:

(1) The name and social security number of the obligor.

(2) A statement that the obligor is believed to be employed by the employer.

(3) A statement that pursuant to the provisions of this section, the obligor's wages are subject to assignment and the employer is authorized and required to forward moneys to the facility.

(4) The maximum amount that shall be forwarded by the employer, which shall not exceed the delinquent or accrued amount of debt being collected by or owed to the facility by the obligor.

(5) The prescribed time frame the employer must meet in forwarding any amounts.

(6) The address of the facility and the account number utilized by the facility for the obligor.

(7) A telephone number, address, and name of a contact person with the facility.

7. RESPONSIBILITIES OF EMPLOYER. Upon receipt of the notice of wage assignment from the facility, the employer shall do all of the following:

a. Immediately give effect to the wage assignment and hold compensation which the obligor has owing to the extent of the debt indicated in the notice from the facility.

b. No sooner than ten days, and no later than twenty days from the date the employer receives the notice of wage assignment, unless notified by the facility of a challenge of the wage assignment by the obligor, the employer shall begin forwarding the obligor's compensation, to the extent required in the notice, to the facility with the obligor's name and social security number, the facility's account number for the obligor, and any other information required in the notice.

c. The employer may assess a fee against the obligor, not to exceed twenty-five dollars, for forwarding of moneys to the facility. This fee is in addition to the amount owed to or being collected by the facility from the obligor. If insufficient moneys are available from the obligor's compensation to cover the fee and the amount in the notice, the employer may deduct the fee amount prior to forwarding moneys to the facility and the amount credited to the obligor's account with the facility shall be reduced by the fee amount. However, if the employer can present evidence to the facility that the employer's costs were in excess of twenty-five dollars and that such costs were necessary and reasonable, then the employer may impose a fee in excess of the twenty-five dollar fee limit.

8. CHALLENGES TO ACTION.

a. Challenges under this section may be initiated only by an obligor. An administrative wage assignment only occurs after the obligor has waived or exhausted administrative remedies. Reviews by the facility of a challenge to an administrative wage assignment are not

subject to chapter 17A unless the challenge is regarding the validity of the assignment. Actions under this section are in equity and not actions at law.

b. The obligor challenging the administrative wage assignment shall submit a written challenge to the person identified as the contact for the facility in the notice, within ten days of the date of the notice to the obligor.

c. The facility, upon receipt of a written challenge, shall review the facts of the case with the obligor within ten days of receipt of the challenge. If the obligor is not available for the review on the scheduled date, the review shall take place without the obligor being present. Information in favor of the obligor shall be considered by the facility in the review. The facility may utilize additional information if such information is available. Only a mistake of fact, including, but not limited to, a mistake in the identity of the obligor or a mistake in the amount owed to or being collected by the facility shall be considered as a reason to dismiss or modify the administrative wage assignment.

d. If the facility determines that a mistake of fact has occurred, the facility shall proceed as follows:

(1) If a mistake in identity has occurred or the obligor does not have a delinquent or accrued amount being collected by or owed to the facility, the facility shall notify the employer that the administrative wage assignment has been released. The facility shall provide a copy of the notice to the obligor by regular mail.

(2) If the delinquent or accrued amount being collected by or owed to the facility is less than the amount indicated in the notice, the facility shall provide a notice to the employer of the revised amount, with a copy of the original notice, and issue a notice to the obligor by regular mail. Upon written receipt of the notice from the facility, the employer shall release the funds in excess of the revised amount and forward the revised amount to the facility pursuant to the administrative wage assignment.

(3) Any moneys received by the facility in excess of the amount owed to or to be collected by the facility shall be returned to the obligor.

e. If the facility finds no mistake of fact, the facility shall provide a notice to that effect to the obligor by regular mail and notify the employer to forward the moneys pursuant to the administrative wage assignment.

f. The obligor shall have the right to file an action for wrongful assignment in district court within thirty days of the date of the notice to the obligor, either in the county where the obligor is located or in Polk county where the facility is located.

9. **VALIDITY AND DURATION OF A WAGE ASSIGNMENT NOTICE.** A notice of wage assignment given to the obligor is effective without the serving of another notice until the earliest of either of the following:

- a. The debt owed to the facility is paid in full.
- b. The obligor receives notice that the wage assignment shall cease.

Expiration of the wage assignment does not affect the obligor's duties and liabilities respecting the wages already withheld pursuant to the wage assignment.

Sec. 3. Section 421.31, subsection 3, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

3. **AUDIT OF CLAIMS.** To set rules and procedures for the preaudit of claims by individual agencies or organizations. The director reserves the right to refuse to accept incomplete or incorrect claims and to review, preaudit, or audit claims as determined by the director.

Sec. 4. **NEW SECTION. 421.47 TAX AGREEMENTS WITH INDIAN TRIBES.**

1. "Indian country" means the Indian country as defined in 18 U.S.C. § 1151, and includes trust land as defined by the United States secretary of the interior.

2. The department and the governing body of an Indian tribe may enter into an agreement to provide for the collection and distribution or refund by the department within Indian country of any tax or fee imposed by the state and administered by the department.

An agreement may also provide for the collection and distribution by the department of any

tribal tax or fee imposed by tribal ordinance. The agreement may provide for the retention of an administrative fee by the department which fee shall be an agreed-upon percentage of the gross revenue of the tribal tax or fee collected.

3. An Act of Congress regulating the collection of state taxes and their remittance to the states shall preempt an agreement between the department and the governing body of an Indian tribe under this section to the extent such federal Act regulates the collection and remittance of a tax covered by the agreement.

4. An agreement between the department and the governing body of an Indian tribe under this section shall not preclude the negotiation of an amendment to such agreement, which conforms to an Act of Congress regulating the collection of state taxes and their remittance to the states.

Sec. 5. Section 422.7, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 38. Subtract, to the extent not otherwise excluded, the amount of withdrawals from qualified retirement plan accounts made during the tax year if the taxpayer or taxpayer's spouse is a member of the Iowa national guard or reserve forces of the United States who is ordered to active state service or federal service or duty. In addition, a penalty for such withdrawals shall not be assessed by the state.

Sec. 6. Section 422.16, subsection 2, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director, in cooperation with the department of management, may periodically change the filing and remittance thresholds by administrative rule if in the best interest of the state and the taxpayer.

Sec. 7. Section 422.42, subsections 15 and 16, Code Supplement 2001, are amended to read as follows:

15. Sales of building materials, supplies, and equipment to owners, contractors, subcontractors or builders, for the erection of buildings or the alteration, repair, or improvement of real property, are retail sales in whatever quantity sold. If a contractor, subcontractor, or builder is to use building materials, supplies, and equipment in the performance of a construction contract with a designated exempt entity, the person shall purchase such items of tangible personal property without liability for the tax if such property will be used in the performance of the construction contract and a purchasing agent authorization letter and an exemption certificate, issued by the designated exempt entity, are presented to the retailer. Where the owner, contractor, subcontractor, or builder is also a retailer holding a retail sales tax permit and transacting retail sales of building materials, supplies, and equipment, the person shall purchase such items of tangible personal property without liability for the tax if such property will be subject to the tax at the time of resale or at the time it is withdrawn from inventory for construction purposes. The sales tax shall be due in the reporting period when the materials, supplies, and equipment are withdrawn from inventory for construction purposes or when sold at retail. The tax shall not be due when materials are withdrawn from inventory for use in construction outside of Iowa and the tax shall not apply to tangible personal property purchased and consumed by the manufacturer as building materials in the performance by the manufacturer or its subcontractor of construction outside of Iowa. The tax shall not be due when materials are withdrawn from inventory for use in construction performed for a designated exempt entity if an exemption certificate is received from such entity.

For the purposes of this subsection, the sale of carpeting is not a sale of building materials. The sale of carpeting to owners, contractors, subcontractors, or builders shall be treated as the sale of ordinary tangible personal property and subject to the tax imposed under section 422.43, subsection 1, and the tax imposed under section 423.2.

For purposes of this subsection, "designated exempt entity" means an entity which is designated in section 422.45, subsection 7.

16. The use within this state of tangible personal property by the manufacturer thereof of such property, as building materials, supplies, or equipment, in the performance of construction contracts in Iowa, shall, for the purpose of this division, be construed as a sale at retail thereof of such property by the manufacturer who shall be deemed to be the consumer of such tangible personal property. The tax shall be computed upon the cost to the manufacturer of the fabrication or production thereof of such property. However, the tax shall not apply to tangible personal property purchased and consumed by the manufacturer as building materials, supplies, or equipment in the performance of a construction contract for a designated exempt entity, as defined in subsection 15, if a purchasing agent authorization letter and an exemption certificate are received from such entity and presented to the retailer.

Sec. 8. Section 422.43, subsection 11, Code Supplement 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of the tax on enumerated services under this subsection, service charges of financial institutions do not include surcharges assessed with regard to nonproprietary ATM transactions. This paragraph is repealed June 30, 2003.

Sec. 9. Section 422.45, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 63. The gross receipts from the sale or rental of tangible personal property or from services performed, rendered, or furnished to a recognized community action agency as provided in section 216A.93 to be used for the purposes of the agency.

Sec. 10. Section 422.47, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5. For purposes of assisting retailers in properly accounting for non-taxable sales of building materials, supplies, and equipment to be used in the performance of a construction contract for a designated exempt entity, as defined in section 422.42, subsection 15, the designated exempt entity shall issue a purchasing agent authorization letter and an exemption certificate to the contractor, subcontractor, builder, or manufacturer to be used as provided in section 422.42, subsection 15 or 16. The authorization letter and the exemption certificate shall specify the construction project to which they apply and shall be valid only for that project.

The designated exempt entity shall notify the department that such authorization letter and exemption certificate have been issued. The notification shall, to the extent practicable, describe the project and identify the contractors, subcontractors, builders, and manufacturers which will be using the letter and certificate.

If a designated exempt entity is required by law to advertise for bids with regard to the construction project, the entity shall include in its notice to bidders that the entity will issue an exemption certificate for the purchase or use of building materials, supplies, and equipment that will be used in the performance of the construction contract.

The provisions of subsection 3, paragraphs "b", "d", and "e", to the extent not inconsistent with this subsection shall apply to this subsection.

Sec. 11. Section 422.54, subsection 1, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director, in cooperation with the department of management, may periodically change the filing and remittance thresholds under sections 422.51 and 422.52 by administrative rule if in the best interest of the state and the taxpayer to do so.

Sec. 12. Section 422B.10, subsection 2, paragraph a, Code 2001, is amended to read as follows:

a. The director of revenue and finance ~~within fifteen days of the beginning~~ by August 15 of

each fiscal year shall send to each city or county where the local option tax is imposed, an estimate of the amount of tax moneys each city or county will receive for the year and for each month of the year. At the end of each month, the director may revise the estimates for the year and remaining months.

Sec. 13. Section 422E.3, subsection 5, paragraph a, Code Supplement 2001, is amended to read as follows:

a. The director of revenue and finance ~~within fifteen days of the beginning~~ by August 15 of each fiscal year shall send to each school district where the tax is imposed an estimate of the amount of tax moneys each school district will receive for the year and for each month of the year. At the end of each month, the director may revise the estimates for the year and remaining months.

Sec. 14. Section 423.13, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director, in cooperation with the department of management, may periodically change the filing and remittance thresholds by administrative rule if in the best interest of the state and the taxpayer to do so.

Sec. 15. Section 425.7, subsection 3, unnumbered paragraph 2, Code Supplement 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~~ thereafter upheld upon final resolution, including any judicial review, 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 five percent of the amount of the disallowed credit is assessed against the claimant.

Sec. 16. Section 425.15, Code 2001, is amended to read as follows:
425.15 DISABLED VETERAN TAX CREDIT.

If the owner of a homestead allowed a credit under this chapter is a veteran of any of the military forces of the United States, who acquired the homestead under 38 U.S.C. § 21.801, 21.802, or 38 U.S.C. § 2101, 2102, the credit allowed on the homestead from the homestead credit fund shall be the entire amount of the tax levied on the homestead. The credit allowed shall be continued to the estate of a veteran who is deceased or the surviving spouse and any child, as defined in section 234.1, who are the beneficiaries of a deceased veteran, so long as the surviving spouse remains unmarried. This section is not applicable to the holder of title to any homestead whose annual income, together with that of the titleholder's spouse, if any, for the last preceding twelve-month income tax accounting period exceeds ~~twenty-five~~ thirty-

five thousand dollars. For the purpose of this section "income" means taxable income for federal income tax purposes plus income from securities of state and other political subdivisions exempt from federal income tax. A veteran or a beneficiary of a veteran who elects to secure the credit provided in this section is not eligible for any other real property tax exemption provided by law for veterans of military service. If a veteran acquires a different homestead, the credit allowed under this section may be claimed on the new homestead unless the veteran fails to meet the other requirements of this section.

Sec. 17. Section 426A.6, Code 2001, is amended to read as follows:

426A.6 SETTING ASIDE ALLOWANCE.

If the director of revenue and finance determines that a claim for military service tax exemption has been allowed by a board of supervisors which is not justifiable under the law and not substantiated by proper facts, the director may, at any time within thirty-six months from July 1 of the year in which the claim is allowed, set aside the allowance. Notice of the disallowance shall be given to the county auditor of the county in which the claim has been improperly granted and a written notice of the disallowance shall also be addressed to the claimant at the claimant's last known address. The claimant or the board of supervisors may appeal to the state board of tax review pursuant to section 421.1, subsection 4. The claimant or the board of supervisors may seek judicial review of the action of the state board of tax review in accordance with chapter 17A. 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 thereafter upheld upon final resolution, including judicial review, the credits allowed and paid from the general fund of the state become a lien upon the property on which the credit was originally granted, if still in the hands of the claimant and not in the hands of a bona fide purchaser, the amount so erroneously paid 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 general fund of the state. The director of revenue and finance may institute legal proceedings against a military service tax exemption claimant for the collection of payments made on disallowed exemptions.

Sec. 18. Section 426A.11, subsection 3, Code Supplement 2001, is amended to read as follows:

3. Where the word "veteran" appears in this chapter, it includes, without limitation, the members of the United States air force, ~~and the United States merchant marine, and coast guard.~~

Sec. 19. Section 427.1, subsection 5, Code Supplement 2001, is amended to read as follows:

5. PROPERTY OF ASSOCIATIONS OF WAR VETERANS. The property of any organization composed wholly of veterans of any war, when such property is devoted entirely to its own use and not held for pecuniary profit. The operation of bingo games on property of such organization shall not adversely affect the exemption of that property under this subsection if all proceeds, in excess of expenses, are used for the legitimate purposes of the organization.

Sec. 20. Section 452A.2, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Biofuel" means an oxygenated product derived from soybean oil, vegetable oil, or animal fats that can be used in diesel engines or aircraft. Biofuel may be a blend with diesel fuel or it may be one hundred percent soybean oil, vegetable oil, or animal fats. Any biofuel product is a special fuel.

Sec. 21. Section 452A.6, Code 2001, is amended to read as follows:

452A.6 ETHANOL BLENDED GASOLINE AND OTHER PRODUCTS BLENDER'S LICENSE.

A person other than a supplier, restrictive supplier, or importer licensed under this division,

who blends gasoline with alcohol distilled from cereal grains so that the blend contains at least ten percent alcohol distilled from cereal grains, shall obtain a blender's license. A person who blends two or more special fuel products or sells one hundred percent biofuel shall obtain a blender's license. The license shall be obtained by following the procedure under section 452A.4 and the license is subject to the same restrictions as contained in that section. A blender shall maintain records as required by section 452A.10 as to motor fuel, alcohol, ~~and~~ ethanol blended gasoline, and special fuels.

Sec. 22. Section 452A.8, subsection 3, Code 2001, is amended to read as follows:

3. For the purpose of determining the amount of the tax liability on alcohol blended to produce ethanol blended gasoline or a blend of special fuel products, each licensed blender shall, not later than the last day of each month following the month in which the blending is done, file with the department a monthly return, signed under penalty for false certificate, containing information required by rules adopted by the director.

Sec. 23. Section 452A.9, Code 2001, is amended to read as follows:

452A.9 RETURNS FROM PERSONS NOT LICENSED AS SUPPLIERS, RESTRICTIVE SUPPLIERS, ~~OR IMPORTERS OR BLENDERS.~~

Every person other than a licensed supplier, restrictive supplier, ~~or importer or blender~~, who purchases, brings into this state, or otherwise acquires within this state motor fuel or undyed special fuel, not otherwise exempted, which the person has knowingly not paid or incurred liability to pay either to a licensee or to a dealer the motor fuel or special fuel tax, shall be subject to the provisions of this division that apply to suppliers, restrictive suppliers, ~~and importers and blenders~~ of motor fuel or undyed special fuel and shall file the same returns and make the same tax payments and be subject to the same penalties for delinquent filing or nonfiling or delinquent payment or nonpayment as apply to suppliers, restrictive suppliers, ~~and importers and blenders.~~

Sec. 24. Section 452A.15, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Every railroad and common carrier or contract carrier transporting motor fuel or special fuel either in interstate or intrastate commerce within this state and every person transporting motor fuel or special fuel by whatever manner into this state shall, subject to penalties for false certificate, report to the department all deliveries of motor fuel or special fuel to points within this state other than refineries or marine or pipeline terminals. If any supplier, restrictive supplier, importer, blender, or distributor is also engaged in the transportation of motor fuel or special fuel for others, the supplier, restrictive supplier, importer, blender, or distributor shall make the same reports as required of common carriers and contract carriers.

Sec. 25. Section 452A.15, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 2A. Persons operating storage facilities at a nonterminal location shall file a monthly report with the department accounting for all motor fuel, alcohol, and special fuel that is delivered into, stored within, withdrawn from, or sold from the storage facility.

Sec. 26. Section 452A.15, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 4. The director may impose a civil penalty against any person who fails to file the reports or keep the records required under this section. The penalty shall be one hundred dollars for the first violation and shall increase by one hundred dollars for each additional violation occurring in the calendar year in which the first violation occurred.

Sec. 27. Section 452A.60, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The department of revenue and finance or the state department of transportation shall prescribe and furnish all forms, as applicable, upon which reports, returns, and applications shall

be made and claims for refund presented under this chapter and may prescribe forms of record to be kept by suppliers, restrictive suppliers, importers, exporters, blenders, common carriers, contract carriers, licensed compressed natural gas and liquefied petroleum gas dealers and users, terminal operators, nonterminal storage facility operations, and interstate commercial motor vehicle operators.

Sec. 28. Section 452A.62, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

To examine the records, books, papers, receipts, and invoices of any distributor, supplier, restrictive supplier, importer, blender, exporter, terminal operator, licensed compressed natural gas or liquefied petroleum gas dealer or user, or any other person who possesses fuel upon which the tax has not been paid to determine financial responsibility for the payment of the taxes imposed by this chapter.

Sec. 29. Section 516D.3, subsection 6, paragraphs a and b, Code 2001, are amended to read as follows:

a. ~~Mandatory charge does not include an optional airport imposed~~ airport-imposed fee if the existence and amount of the fee are clearly and conspicuously disclosed immediately adjacent to any advertised rental price. ~~The advertisement must clearly and conspicuously state the method of avoiding the airport access fee and the~~ customer must be informed of the amount of the fee when the reservation is made. When an advertisement encompasses more than one rental location, the fee may be expressed as the maximum fee or range of fees.

b. Mandatory charge does not include taxes imposed directly upon the rental transaction by an authorized taxing authority. ~~An airport imposed fee on gross receipts or an airport access fee is not such a tax.~~

Sec. 30. Notwithstanding the filing deadline provided in section 427.1, subsection 14, the filing deadline for organizations, institutions, or societies required to file a claim for a property tax exemption for the assessment year beginning January 1, 2002, for taxes due and payable in the fiscal year beginning July 1, 2003, shall be October 1, 2002.

Sec. 31. Section 70A.17, Code 2001, is repealed.

Sec. 32. ABATEMENT OF PROPERTY TAXES. Notwithstanding the requirement for the filing of a claim for property tax exemption by April 15 as provided in section 427.1, subsection 14, Code Supplement 1999, the board of supervisors of a county having a population based upon the latest federal census of more than one hundred eighty thousand but not more than two hundred thousand shall abate the property taxes owed, with all interest, fees, and costs, levied for the fiscal year beginning July 1, 2000, which were payable during the fiscal year beginning July 1, 2001, on the land and buildings of a religious institution that did not receive a property tax exemption for failure to file for the exemption. To receive the abatement provided in this section, the religious institution shall apply to the county board of supervisors by October 1, 2002, and provide appropriate information establishing that the lands and buildings for which the abatement is sought were used by the religious institution for its appropriate objects during the fiscal year beginning July 1, 2000. The abatement allowed under this section only applies to property taxes, with all interests, fees, and costs, levied for the fiscal year beginning July 1, 2000, and due and payable in the fiscal year beginning July 1, 2001.

Sec. 33.

1. ABATEMENT OF SALES AND USE TAXES. The director of revenue and finance shall abate unpaid state sales and use taxes and local sales and services taxes owed by any foundry located in Lee or Jefferson county on purchases of tangible personal property used by the foundry in making patterns, molds, or dies which purchases occurred between July 1, 1997, and the effective date of this section.

2. REFUNDS. If the state sales and use taxes and local sales and services taxes have been paid on the purchases of tangible personal property which occurred between July 1, 1997, and the effective date of this section and which taxes would have been abated under subsection 1 if not paid, then such taxes and any interest and penalties, that were paid, are eligible for refund. However, refunds shall not be allowed unless claims are filed prior to October 1, 2002, and shall be limited to twenty-five thousand dollars in the aggregate. 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. 34. VOLUNTEER FIRE FIGHTERS PENSION TASK FORCE — REPORT. A volunteer fire fighters pension task force is created concerning the establishment of a pension system for volunteer fire fighters in this state. The task force shall examine pension plans established by other states for volunteer fire fighters and shall solicit information from volunteer fire fighters, and cities and townships with volunteer fire fighters, concerning the establishment of a pension system for volunteer fire fighters. The task force shall also identify and examine issues relating to volunteer fire departments' attraction and retention of fire fighters and shall propose solutions to these issues of attraction and retention.

Membership of the task force is to be determined by the legislative council. Members shall be appointed by the legislative council. The membership shall include, but not be limited to, the following:

1. The commissioner of insurance or the commissioner's designee.
2. The treasurer of state or the treasurer's designee.
3. A representative of a pension system established pursuant to Code chapter 411.
4. A representative of the Iowa public employees' retirement system.
5. A representative of a pension system established for private sector employees.
6. A representative of the state fire and emergency response council.
7. A representative of volunteer fire fighters in the state.
8. A representative of township trustees.
9. A representative of the Iowa league of cities.

The legislative service bureau and the legislative fiscal bureau shall provide staffing assistance to the task force. The department of management shall provide other assistance to the task force in completing its duties.

The task force shall submit a report to the general assembly by January 1, 2003. The report shall contain the findings and recommendations of the task force.

Sec. 35. IMPLEMENTATION OF ACT. Section 25B.7 does not apply to the section of this Act amending section 425.15 relating to the disabled veteran tax credit.

Sec. 36. EFFECTIVE DATES.

1. The sections of this Act amending sections 422.42 and 422.47 take effect January 1, 2003, and apply to construction contracts entered into on or after that date.

2. The section of this Act extending the time for filing a claim for property tax exemptions by certain organizations, institutions, or societies, being deemed of immediate importance, takes effect upon enactment.

3. The section of this Act amending section 404.4, relating to the exemption for urban revitalization, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2001, for claims for exemptions made on or after that date.

4. The section of this Act providing for the abatement of property taxes on religious property, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to property taxes due and payable in the fiscal year beginning July 1, 2001.

5. The section of this Act that provides for the abatement of sales and use taxes owed or the refund of sales and use tax paid on the purchases of certain tangible personal property by a foundry, being deemed of immediate importance, takes effect upon enactment.

6. The section of this Act amending section 422.7 applies retroactively to January 1, 2002, for tax years beginning on or after that date.

7. The section of this Act amending section 425.15, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2002, for claims filed or on file on or after that date.

Approved May 6, 2002

CHAPTER 1152

PRIMARY AND SECONDARY EDUCATION — EMPLOYEE STANDARDS, CAREER DEVELOPMENT, ASSESSMENT, AND REMUNERATION

H.F. 2549

AN ACT relating to students and school district employees by amending the student achievement and teacher quality program and language pertaining to retirement incentives and providing an effective date.

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

Section 1. Section 256.7, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 25. Adopt rules establishing standards for school district and area education agency career development programs and for individual teacher career development plans in accordance with section 284.6.

Sec. 2. Section 256.9, subsection 50, Code Supplement 2001, is amended to read as follows:

50. 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. The director, in consultation with the board of educational examiners, shall also develop a transition plan for implementation of the career development standards developed pursuant to section 256.7, subsection 25, with regard to licensure renewal requirements. The plan shall include a requirement that practitioners be allowed credit for career development completed prior to implementation of the career development standards developed pursuant to section 256.7, subsection 25.

Sec. 3. Section 256.44, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. If a teacher registers for national board for professional teaching standards certification prior to June 30, ~~2002~~ 2005, a one-time initial reimbursement award in the amount of up to one-half of the registration fee paid by the teacher for registration for certification by the national board for professional teaching standards. The teacher shall apply to the department of education within one year of registration, submitting to the department any documentation the department requires. A teacher who receives an initial reimbursement award shall receive a one-time final registration award in the amount of the remaining national board registration fee paid by the teacher if the teacher notifies the department of the teacher's certification achievement and submits any documentation requested by the department.

Sec. 4. Section 256.44, subsection 1, paragraph b, subparagraph (2), unnumbered paragraph 1, Code 2001, is amended to read as follows:

If the teacher registers for national board for professional teaching standards certification between January 1, 1999, and January 1, ~~2002~~ 2005, and achieves certification within three years from the date of initial score notification, an annual award in the amount of two thousand five hundred dollars upon achieving certification by the national board of professional teaching standards.

Sec. 5. Section 279.19, unnumbered paragraph 2, Code Supplement 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~~ demonstrate competence in the Iowa teaching standards in accordance with chapter 284, the provisions of sections 279.17 and 279.18 shall also apply.

Sec. 6. Section 279.46, Code 2001, is amended to read as follows:

279.46 RETIREMENT INCENTIVES — TAX.

The board of directors of a school district may adopt a program for payment of a monetary bonus, continuation of health or medical insurance coverage, or other incentives for encouraging its employees to retire before the normal retirement date as defined in chapter 97B. The program is available only to employees ~~between fifty-five and sixty-five years of age~~ who notify the board of directors prior to April 1 of the fiscal year that they intend to retire not later than the next following June 30. ~~However, the~~ The age at which employees shall be designated eligible for the program, ~~within the age range of fifty-five to sixty-five years of age~~, shall be at the discretion of the board. An employee retiring under this section shall ~~may~~ apply for a retirement allowance under chapter 97B or chapter 294. The board may include in the district management levy an amount to pay the total estimated accumulated cost to the school district of the health or medical insurance coverage, bonus, or other incentives for employees within the age range of fifty-five to sixty-five years of age who retire under this section.

Sec. 7. Section 284.2, subsections 1 through 3, 7, and 10, Code Supplement 2001, are amended to read as follows:

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. For purposes of the beginning teacher mentoring and induction program created pursuant to section 284.5, "beginning teacher" also includes preschool teachers who are licensed by the board of educational examiners under chapter 272 and are employed by a school district or area education agency.

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 issued by a board of directors under section 279.13 to provide classroom instruction to students, or as a preschool teacher.

3. "Comprehensive evaluation" means a summative evaluation of a beginning teacher conducted by an evaluator for purposes of ~~performance review, or determining a beginning teacher's level of competency relative to the Iowa teaching standards and for recommendation for licensure based upon models developed pursuant to section 256.9, subsection 50, and to determine whether the teacher's practice meets the school district expectations for a career, career II, or advanced level teacher.~~

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.

10. "Teacher" means an individual holding a practitioner's license issued under chapter 272, who is employed in a nonadministrative position as a teacher, librarian, media specialist, preschool teacher, 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. 8. Section 284.2, Code Supplement 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 6A. "Intensive assistance" means the provision of organizational support and technical assistance to teachers, other than beginning teachers, for the remediation of identified teaching and classroom management concerns for a period not to exceed twelve months.

NEW SUBSECTION. 7A. "Performance review" means a summative evaluation of a teacher other than a beginning teacher and used to determine whether the teacher's practice meets school district expectations and the Iowa teaching standards, and to determine whether the teacher's practice meets school district expectations for career advancement in accordance with section 284.7.

Sec. 9. Section 284.3, subsection 2, Code Supplement 2001, is amended by striking the subsection and inserting in lieu thereof the following:

2. A school board shall provide for the following:

a. By July 1, 2002, for purposes of comprehensive evaluations for beginning teachers required to allow beginning teachers to progress to career teachers, standards and criteria that are the Iowa teaching standards specified in subsection 1 and the model criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 50. These standards and criteria shall be set forth in an instrument provided by the department. The comprehensive evaluation and instrument are not subject to negotiations or grievance procedures pursuant to chapter 20 or determinations made by the board of directors under section 279.14. A local school board and its certified bargaining representative may negotiate, pursuant to chapter 20, evaluation and grievance procedures for beginning teachers that are not in conflict with this chapter. If, in accordance with section 279.19, a beginning teacher appeals the determination of a school board to an adjudicator under section 279.17, the adjudicator selected shall have successfully completed training related to the Iowa teacher standards, the model criteria adopted by the state board of education in accordance with section 284.3, subsection 3, as enacted by this Act, and any additional training required under rules adopted by the public employment relations board in cooperation with the state board of education.

b. By July 1, 2004, for purposes of performance reviews for teachers other than beginning teachers, evaluations that contain, at a minimum, the Iowa teaching standards specified in subsection 1, as well as the model criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 50. A local school board and its certified bargaining representative may negotiate, pursuant to chapter 20, additional teaching standards and criteria. A local school board and its certified bargaining representative may negotiate, pursuant to chapter 20, evaluation and grievance procedures for teachers other than beginning teachers that are not in conflict with this chapter.

Sec. 10. Section 284.3, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The state board shall adopt by rule pursuant to chapter 17A the model criteria developed by the department in accordance with section 256.9, subsection 50.

Sec. 11. Section 284.4, subsection 1, paragraphs c and e, Code Supplement 2001, are amended to read as follows:

c. Provide, beginning in the ~~second~~ fourth 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 district-wide 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, evaluate their current career development alignment with their student achievement goals and research-based instructional strategies, and implement district career development plans. A school district that provides the equivalent of ten or more contract days for career development is exempt from this paragraph.

e. Adopt a teacher evaluation plan that, at minimum, requires a ~~comprehensive evaluation performance review~~ of teachers in the participating district at least once every five ~~three~~ years based upon the Iowa teaching standards and individual career development plans, and requires administrators to complete evaluator training in accordance with section 284.10.

Sec. 12. Section 284.4, subsection 2, Code Supplement 2001, is amended to read as follows:

2. By July 1, ~~2003~~ 2002, 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. 13. Section 284.5, Code Supplement 2001, is amended to read as follows:

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 and area education agencies, 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~~ Each school district ~~may~~ and area education agency shall provide a beginning teacher mentoring and induction program for all classroom teachers who are beginning teachers ~~in by the school years year beginning July 1, 2001, and July 1, 2002,~~ and notwithstanding section 284.4, subsection 1, a school district is and an area education agency shall be eligible to receive moneys under section 284.13, subsection 1, paragraph "c", for ~~each the~~ fiscal year ~~of the fiscal period~~ beginning July 1, ~~2001~~ 2002, and ending June 30, 2003, to establish a beginning teacher mentoring and induction program in accordance with this section.

4. Each participating school district and area education agency shall develop an initial beginning teacher mentoring and induction plan. ~~The A school district shall include its 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 release time for mentors and beginning teachers to plan, provide demonstration of classroom practices, observe teach-

ing, 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 or the area education agency, 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 or area education agency.

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 or area education agency that employs the beginning teacher shall recommend for an educational license a beginning teacher who has successfully completed the program for an educational license is determined through a comprehensive evaluation to demonstrate competence in the Iowa teaching standards. A school district or area education agency may offer a beginning 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.

7. If a beginning teacher who is participating in a mentoring and induction program leaves the employ of a participating school district or area education agency prior to completion of the program, the participating school district or area education agency subsequently hiring the beginning teacher shall credit the beginning teacher with the time earned in the program prior to the subsequent hiring.

8. If the general assembly appropriates moneys for purposes of this section, a school district or area education agency is eligible to receive state assistance for up to two years under this section for each teacher the school district or area education agency employs who was formerly employed in an accredited nonpublic school or in another state as a first-year teacher. The school district or area education agency employing the teacher shall determine the conditions and requirements of a teacher participating in a program in accordance with this subsection. The school district or area education agency that employs the teacher shall recommend the teacher for an educational license if the teacher, through a comprehensive evaluation, is determined to demonstrate competence in the Iowa teaching standards.

Sec. 14. Section 284.6, subsection 4, Code Supplement 2001, is amended to read as follows:

4. In cooperation with the teacher's supervisor evaluator, the career teacher employed by a participating school district shall develop an individual teacher career development plan. The evaluator shall consult with the teacher's supervisor on the development of the individual teacher career development plan. The purpose of the plan is to promote individual and group career development. 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.

4A. The individual plan shall be reviewed by the teacher and the teacher's supervisor at the teacher's annual review, and shall be modified evaluator shall annually meet with the teacher to review progress in meeting the goals in the teacher's individual plan. The teacher shall present to the evaluator evidence of progress. The purpose of the meeting shall be to review the teacher's progress in meeting career development goals in the plan and to review collaborative work with other staff on student achievement goals and to modify as necessary the teacher's individual plan to reflect the individual teacher's and the school district's needs and the individual's progress in meeting the goals in the plan. The teacher's supervisor shall review, modify, or accept modifications made to the teacher's individual plan.

Sec. 15. Section 284.7, subsection 2, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

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:

Sec. 16. Section 284.7, subsection 6, paragraph a, Code Supplement 2001, is amended to read as follows:

a. For the school year beginning July 1, ~~2001~~ 2002, and ending June 30, ~~2002~~ 2003, 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 this section. 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~~ 2002, for the distribution of funds received pursuant to section 284.13, subsection 1, paragraph "g" or "h", paragraph "b" of this subsection shall apply.

Sec. 17. Section 284.8, Code Supplement 2001, is amended by striking the section and inserting in lieu thereof the following:

284.8 PERFORMANCE REVIEW REQUIREMENTS FOR TEACHERS.

1. A participating school district shall review a teacher's performance at least once every three years for purposes of assisting teachers in making continuous improvement, documenting continued competence in the Iowa teaching standards, identifying teachers in need of improvement, or to determine whether the teacher's practice meets school district expectations for career advancement in accordance with section 284.7. The review shall include, at minimum, classroom observation of the teacher, the teacher's progress, and implementation of the teacher's individual career development plan; shall include supporting documentation from other evaluators, teachers, parents, and students; and may include video portfolios as evidence of teaching practices.

2. If a supervisor or an evaluator determines, at any time, as a result of a teacher's performance that the teacher is not meeting district expectations under the Iowa teaching standards specified in section 284.3, subsection 1, paragraphs "a" through "g", the model criteria for the Iowa teaching standards developed by the department in accordance with section 256.9, subsection 50, or any other standards or criteria established in the collective bargaining agreement, the evaluator shall, at the direction of the teacher's supervisor, recommend to the district that the teacher participate in an intensive assistance program. The intensive assistance program and its implementation are not subject to negotiation or grievance procedures established pursuant to chapter 20. By July 1, 2004, all school districts must be prepared to offer an intensive assistance program.

3. If a teacher is denied advancement to the career II or advanced teacher level based upon a performance review, 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.

Sec. 18. Section 284.10, subsections 4 through 6, Code Supplement 2001, are amended to read as follows:

4. By July 1, ~~2002~~ 2003, 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~~ 2003, the board of educational examiners shall require certification as a condition of issuing or renewing an administrator's license.

6. By July 1, ~~2004~~ 2005, 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. 19. Section 284.13, subsection 1, paragraphs b, c, d, and e, Code Supplement 2001, are amended to read as follows:

b. For the fiscal year beginning July 1, ~~2001~~ 2002, and ending June 30, ~~2002~~ 2003, to the department of education, the amount of one million ~~nine~~ four 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~~ one 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~~ 2002, and ending June 30, ~~2002~~ 2003, up to one million ~~five~~ seven 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~~ 2002, and ending June 30, ~~2002~~ 2003, up to ~~one million five hundred~~ fifty 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.

Sec. 20. Section 284.13, subsection 1, paragraph g, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

~~For the each fiscal year beginning July 1, 2001, and ending June 30, 2002, the amount of in which funds are appropriated for purposes of this chapter, the 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:~~

Sec. 21. 2001 Iowa Acts, chapter 161, section 21, is amended to read as follows:

SEC. 21. Section 272.33, Code 2001, is repealed effective July 1, ~~2002~~ 2003.

Sec. 22. MINIMUM TEACHER SALARY REQUIREMENTS — FY 2002-2003.

1. Notwithstanding section 284.7, subsection 1, paragraph “a”, subparagraph (2), the minimum teacher salary paid by a school district or area education agency for purposes of teacher compensation in accordance with chapter 284, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, shall be the minimum salary amount the school district or area education agency paid to a first-year beginning teacher or, the minimum salary amount the school district or area education agency would have paid a first-year beginning teacher if the school district or area education agency had participated in the program in the 2001-2002 school year, in accordance with section 284.7, subsection 1, Code Supplement 2001. If the school district or area education agency did not employ a first-year beginning teacher in the 2001-2002 fiscal year, the minimum salary is the amount that the district would have paid a first-year beginning teacher under chapter 284 in the 2001-2002 fiscal year.

2. Notwithstanding section 284.7, subsection 1, paragraph “b”, subparagraph (2), the minimum career teacher salary paid to a career teacher who was a beginning teacher in the 2001-2002 fiscal year, by a school district or area education agency participating in the student achievement and teacher quality program, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, shall be, unless the school district has a minimum career teacher salary that exceeds thirty thousand dollars, one thousand dollars greater than the minimum salary amount the school district or area education agency paid to a first-year beginning teacher if the school district or area education agency participated in the program during the 2001-2002 school year, or the minimum salary amount the school district or area education agency would have paid a first-year beginning teacher if the school district or area education agency had participated in the program in the 2001-2002 school year, in accordance with section 284.7, subsection 1, Code Supplement 2001.

3. Notwithstanding section 284.7, subsection 1, paragraph “b”, subparagraph (2), and except as provided in subsection 2, the minimum career teacher salary paid by a school district or area education agency participating in the student achievement and teacher quality program, for purposes of teacher compensation in accordance with chapter 284, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, shall be the minimum salary amount the school district or area education agency paid to a career teacher if the school district or area education agency participated in the program during the 2001-2002 school year, or, the minimum salary amount the school district or area education agency would have paid a career teacher if the school district or area education agency had participated in the program in the 2001-2002 school year, in accordance with section 284.7, subsection 1, Code Supplement 2001.

Sec. 23. STUDENT ACHIEVEMENT AND TEACHER QUALITY — INCLUSION STUDY. The department of education shall conduct a study regarding the feasibility of including within the student achievement and teacher quality program individuals who hold a practitioner’s license issued under chapter 272, or a letter of authorization or statement of professional recognition issued by the board of educational examiners, are employed in a nonadministrative position by school districts and area education agencies pursuant to contracts issued by boards of directors under section 279.13, and are not currently included in the program. The study shall address mentoring, career development, evaluation, and salaries and career levels for these individuals, as well as the costs of including these individuals in each aspect of the program. The department shall submit its findings and recommendations in a report to the chairpersons and ranking members of the senate and house standing committees on education and the joint appropriations subcommittee on education by December 15, 2003.

Sec. 24. TEACHER CAREER PATH PILOT PROGRAM. It is the intent of the general assembly to create a statewide career path pilot program to be implemented in approved school districts during the school year beginning July 1, 2003, and ending June 30, 2004. By December 15, 2002, the department of education shall develop recommendations for the pilot program in consultation with persons representing teachers, administrators, school boards, and

other education stakeholders as appropriate, and shall submit its recommendations to the chairpersons and ranking members of the senate and house standing committees on education and the joint appropriations subcommittee on education. The recommendations shall, at a minimum, include proposals for grant criteria; measures by which a school district may identify the characteristics that define a career II and advanced level teacher; conditions under which a teacher may advance to the career II and advanced levels including the performance evaluation required to advance to the next career level; maximum use of the career and advanced teacher's skills and knowledge to benefit the school district and its students; training necessary for adjudicators for purposes of section 284.8, subsection 3; and a review process.

Sec. 25. REPORT TO DEPARTMENT — NUMBER OF PRESCHOOL TEACHERS EMPLOYED. By July 30, 2002, each school district and area education agency shall report to the department of education the number of preschool teachers employed by the school district or area education agency on the third Friday of September 2001.

Sec. 26. EFFECTIVE DATE. The section of this Act amending 2001 Iowa Acts, chapter 161, section 21, being deemed of immediate importance, takes effect upon enactment.

Approved May 6, 2002

CHAPTER 1153

PROPERTY TAXATION — VINEYARD REAL ESTATE AND BUILDINGS

H.F. 2584

AN ACT relating to assessment of certain vineyards for purposes of property taxation and providing a retroactive applicability date.

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

Section 1. Section 441.21, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Beginning with valuations established on or after January 1, 2002, as used in this section, "agricultural property" includes the real estate of a vineyard and buildings used in connection with the vineyard, including any building used for processing wine if such building is located on the same parcel as the vineyard.

Sec. 2. RETROACTIVE APPLICABILITY DATE. This Act applies retroactively to assessment years beginning on or after January 1, 2002.

Approved May 6, 2002

CHAPTER 1154BUSINESS CORPORATIONS —
MISCELLANEOUS PROVISIONS — OTHER ENTITIES

H.F. 2509

AN ACT regarding business corporations, and providing an effective date.

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

Section 1. Section 490.120, subsections 4, 7, 9, and 10, Code 2001, are amended to read as follows:

4. The document must be typewritten or printed. If the document is electronically transmitted, it must be in a format that can be retrieved or reproduced in typewritten or printed form.

7. The person executing the document shall sign it and state beneath or opposite the person's signature, the person's name and the capacity in which the person signs. The document may, but need not, contain:

- a. ~~The a corporate seals, seal.~~
- b. ~~An attestation by the secretary or an assistant secretary.~~
- c. ~~An attestation, acknowledgment, or verification, or proof.~~

The secretary of state may accept for filing a document containing a copy of a signature, however made.

9. The document must be delivered to the office of the secretary of state for filing ~~and must be accompanied by the correct filing fee.~~ Delivery may be made by electronic transmission if and to the extent permitted by the secretary of state. If it is filed in typewritten or printed form and not transmitted electronically, the secretary of state may require one exact or conformed copy to be delivered with the document, except as provided in sections 490.503 and 490.1509.

10. ~~The secretary of state may adopt rules for the electronic filing of documents and the certification of electronically filed documents. When the document is delivered to the office of the secretary of state for filing, the correct filing fee, and any franchise tax, license fee, or penalty, shall be paid in a manner permitted by the secretary of state.~~

Sec. 2. Section 490.120, Code 2001, is amended by adding the following new subsection: **NEW SUBSECTION.** 11. The secretary of state may adopt rules for the electronic filing of documents and the certification of electronically filed documents.

Sec. 3. Section 490.123, subsection 1, Code 2001, is amended to read as follows:

1. Except as provided in subsection 2 and section 490.124, subsection 3, a document accepted for filing is effective at the later of the following times:

- a. At the date and time of filing ~~on the date it is filed~~, as evidenced by such means as the secretary of state's ~~date and time endorsement on the original document~~ state may use for the purpose of recording the date and time of filing.
- b. At the time specified in the document as its effective time on the date it is filed.

Sec. 4. Section 490.124, subsections 1 and 2, Code 2001, are amended to read as follows:
1. A domestic or foreign corporation may correct a document filed by the secretary of state if the document satisfies one ~~or both~~ of the following requirements:

- a. ~~Contains~~ The document contains an incorrect statement inaccuracy.
- b. ~~Was~~ The document was defectively executed, attested, sealed, verified, or acknowledged.
- c. The electronic transmission was defective.

2. A document is corrected by complying with both of the following:

- a. By preparing articles of correction that satisfy all of the following requirements:

- (1) Describe the document, including its filing date, or attach a copy of it to the articles.
- (2) ~~Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective~~ inaccuracy or defect to be corrected.
- (3) ~~Correct the incorrect statement or defective execution~~ inaccuracy or defect.
 - b. By delivering the articles to the secretary of state for filing.

Sec. 5. Section 490.125, subsection 2, Code 2001, is amended to read as follows:

2. The secretary of state files a document by ~~stamping or otherwise endorsing "filed", together with the secretary's name and official title and recording it as filed on~~ the date and time of receipt, ~~on both the document and the receipt for the filing fee.~~ After filing a document, except the biennial report required by section 490.1622, and except as provided in sections 490.503 and 490.1509, the secretary of state shall deliver ~~the document, with the filing fee receipt, or acknowledgment of receipt if no fee is required, attached,~~ to the domestic or foreign corporation or its representative a copy of the document with an acknowledgement of the date and time of filing.

Sec. 6. Section 490.127, Code 2001, is amended to read as follows:

490.127 EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT.

A certificate ~~attached to~~ from the secretary of state delivered with a copy of a document filed by the secretary of state, ~~bearing the secretary of state's signature, which may be in facsimile, and the seal of the secretary of state,~~ is conclusive evidence that the original document is on file with the secretary of state.

Sec. 7. Section 490.140, subsection 6, Code Supplement 2001, is amended to read as follows:

6. ~~"Deliver" includes mail or "delivery" means any method of delivery used in conventional commercial practice, including delivery in person, by mail, commercial delivery, and electronic transmission.~~

Sec. 8. Section 490.140, Code Supplement 2001, is amended by adding the following new subsections:

NEW SUBSECTION. 8A. "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

NEW SUBSECTION. 23A. "Sign" or "signature" includes any manual, facsimile, conformed, or electronic signature.

NEW SUBSECTION. 28. "Voting power" means the current power to vote in the election of directors.

Sec. 9. Section 490.141, subsections 1, 2, 3, and 5, Code 2001, are amended to read as follows:

1. Notice under this chapter must be in writing unless oral notice is reasonable under the circumstances. Notice by electronic transmission is written notice.

2. Notice may be communicated in person; by telephone, telegraph, teletype, or other form of wire or wireless communication; or by mail or private carrier mail or other method of delivery; or by telephone, voice mail, or other electronic means. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.

3. Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, is effective ~~when mailed,~~ according to one of the following:

a. Upon deposit in the United States mail, if mailed postpaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders.

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

5. Except as provided in subsection 3, written notice, if in a comprehensible form, is effective at the earliest of the following:

- a. When received.
- b. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.
- c. On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

Sec. 10. Section 490.202, subsection 2, Code 2001, is amended to read as follows:

2. The articles of incorporation may set forth any or all of the following:
 - a. The names and addresses of the individuals who are to serve as the initial directors.
 - b. Provisions not inconsistent with law regarding:
 - (1) The purpose or purposes for which the corporation is organized.
 - (2) Managing the business and regulating the affairs of the corporation.
 - (3) Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders.
 - (4) A par value for authorized shares or classes of shares.
 - (5) The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions.
 - c. Any provision that under this chapter is required or permitted to be set forth in the bylaws.
 - d. A provision consistent with section 490.832. A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for any of the following:
 - (1) The amount of a financial benefit received by a director to which the director is not entitled.
 - (2) An intentional infliction of harm on the corporation or the shareholders.
 - (3) A violation of section 490.833.
 - (4) An intentional violation of criminal law.
 - e. A provision permitting or making obligatory indemnification of a director for liability, as defined in section 490.850, subsection 5, to any person for any action taken, or any failure to take any action, as a director, except liability for any of the following:
 - (1) Receipt of a financial benefit to which the person is not entitled.
 - (2) An intentional infliction of harm on the corporation or its shareholders.
 - (3) A violation of section 490.833.
 - (4) An intentional violation of criminal law.
 - f. A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for any of the following:
 - (1) The amount of a financial benefit received by a director to which the director is not entitled.
 - (2) An intentional infliction of harm on the corporation or the shareholders.
 - (3) A violation of section 490.833.
 - (4) An intentional violation of criminal law.
- A provision shall not eliminate or limit the liability of a director for an act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 11. Section 490.621, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 6. a. An issuance of shares or other securities convertible into or rights exercisable for shares, in a transaction or a series of integrated transactions, requires approval of the shareholders, at a meeting at which a quorum exists consisting of at least a majority of the votes entitled to be cast on the matter, if both of the following conditions are satisfied:

- (1) The shares, other securities, or rights are issued for consideration other than cash or cash equivalents.

(2) The voting power of shares that are issued and issuable as a result of the transaction or series of integrated transactions will comprise more than twenty percent of the voting power of the shares of the corporation that were outstanding immediately before the transaction.

b. For purposes of this subsection, the following shall apply:

(1) For purposes of determining the voting power of shares issued and issuable as a result of a transaction or series of integrated transactions, the voting power of shares shall be the greater of the following:

(a) The voting power of the shares to be issued.

(b) The voting power of the shares that would be outstanding after giving effect to the conversion of convertible shares and other securities and the exercise of rights to be issued.

(2) A series of transactions is integrated if consummation of one transaction is made contingent on consummation of one or more of the other transactions.

Sec. 12. Section 490.631, subsections 2 and 3, Code 2001, are amended to read as follows:

2. If the articles of incorporation prohibit the reissue of the acquired shares, the number of authorized shares is reduced by the number of shares acquired, ~~effective upon amendment of the articles of incorporation.~~

~~3. The board of directors may adopt articles of amendment under this section without shareholder action, and deliver them to the secretary of state for filing. The articles must set forth all of the following:~~

~~a. The name of the corporation.~~

~~b. The reduction in the number of authorized shares, itemized by class and series.~~

~~c. The total number of authorized shares, itemized by class and series, remaining after reduction of the shares.~~

Sec. 13. Section 490.640, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 7. This section shall not apply to distributions in liquidation under division XIV.

Sec. 14. Section 490.702, subsection 1, Code 2001, is amended to read as follows:

1. Except as provided in subsection 5, a corporation shall hold a special meeting of shareholders upon the occurrence of either of the following:

a. On call of its board of directors or the person or persons authorized to call a special meeting by the articles of incorporation or bylaws.

b. ~~If the holders~~ shareholders of at least ten percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting sign, date, and deliver to the ~~corporation's secretary~~ corporation one or more written demands for the meeting describing the purpose or purposes for which it is to be held, provided that the articles of incorporation may fix a lower percentage or a higher percentage not exceeding twenty-five percent of all the votes entitled to be cast on any issue proposed to be considered. Unless otherwise provided in the articles of incorporation, a written demand for a special meeting may be revoked by a writing to that effect received by the corporation prior to the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.

Sec. 15. Section 490.704, subsection 2, Code 2001, is amended to read as follows:

2. A written consent shall bear the date of signature of each shareholder who signs the consent and no written consent is effective to take the corporate action referred to in the consent unless, within sixty days of the earliest dated consent delivered in the manner required by this section to the corporation, written consents signed by a sufficient number of holders to take action are delivered to the corporation. A written consent may be revoked by a writing to that effect received by the corporation prior to the receipt by the corporation of unrevoked written consents sufficient in number to take corporate action.

Sec. 16. NEW SECTION. 490.708 CONDUCT OF THE MEETING.

1. At each meeting of shareholders, a chairperson shall preside. The chairperson shall be appointed as provided in the bylaws or, in the absence of such provisions, by the board.
2. The chairperson, unless the articles of incorporation or bylaws provide otherwise, shall determine the order of business and shall have the authority to establish rules for the conduct of the meeting.
3. Any rules adopted for, and the conduct of, the meeting shall be fair to shareholders.
4. The chairperson of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies, or votes nor any revocations or changes to any ballots, proxies, or votes may be accepted.

Sec. 17. Section 490.722, subsections 2, 3, 4, and 8, Code 2001, are amended to read as follows:

2. A shareholder or the shareholder's agent or attorney-in-fact may appoint a proxy to vote or otherwise act for the shareholder by signing an appointment form, ~~either personally or by the shareholder's attorney-in-fact~~ or by an electronic transmission. An electronic transmission must contain or be accompanied by information from which one can determine that the shareholder, the shareholder's agent, or the shareholder's attorney-in-fact authorized the electronic transmission.

3. An appointment of a proxy is effective when a signed appointment form or an electronic transmission of the appointment is received by the ~~secretary or other officer or agent~~ inspector of election or the officer or agent of the corporation authorized to tabulate votes. An appointment is valid for eleven months unless a longer period is expressly provided in the appointment form.

4. An appointment of a proxy is revocable ~~by the shareholder~~ unless the appointment form conspicuously or electronic transmission states that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include, but are not limited to, the appointment of:

- a. A pledgee.
- b. A person who purchased or agreed to purchase the shares.
- c. A creditor of the corporation who extended it credit under terms requiring the appointment.
- d. An employee of the corporation whose employment contract requires the appointment.
- e. A party to a voting agreement created under section 490.731.

8. Subject to section 490.724 and to any express limitation on the proxy's authority ~~appearing on the face of~~ stated in the appointment form or electronic transmission, a corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

Sec. 18. Section 490.724, subsections 4 and 5, Code 2001, are amended to read as follows:

4. The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section or section 490.722, subsection 2, are not liable in damages to the shareholder for the consequences of the acceptance or rejection.

5. Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section or section 490.722, subsection 2, is valid unless a court of competent jurisdiction determines otherwise.

Sec. 19. Section 490.727, subsection 1, Code 2001, is amended to read as follows:

1. The articles of incorporation or bylaws may provide for a greater quorum or voting requirement for shareholders or voting groups of shareholders than is provided for by this chapter.

Sec. 20. Section 490.728, subsection 1, Code 2001, is amended to read as follows:

1. Unless otherwise provided in the articles of incorporation, directors are elected by a ~~majority~~ plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

Sec. 21. NEW SECTION. 490.729 INSPECTORS OF ELECTION.

1. A corporation having any shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association shall, and any other corporation may, appoint one or more inspectors to act at a meeting of shareholders and make a written report of the inspectors' determinations. Each inspector shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of the inspector's ability.

2. The inspectors shall do all of the following:

- a. Ascertain the number of shares outstanding and the voting power of each.
- b. Determine the shares represented at a meeting.
- c. Determine the validity of proxies and ballots.
- d. Count all votes.
- e. Determine the result.

3. An inspector may be an officer or employee of the corporation.

Sec. 22. NEW SECTION. 490.732 SHAREHOLDER AGREEMENTS.

1. An agreement among the shareholders of a corporation that complies with this section is effective among the shareholders and the corporation even though it is inconsistent with one or more other provisions of this chapter in that it does one of the following:

a. Eliminates the board of directors or restricts the discretion or powers of the board of directors.

b. Governs the authorization or making of distributions whether or not in proportion to ownership of shares, subject to the limitations in section 490.640.

c. Establishes who shall be directors or officers of the corporation, or their terms of office or manner of selection or removal.

d. Governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including use of weighted voting rights or director proxies.

e. Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or employee of the corporation, or among any of them.

f. Transfers to one or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the business and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders.

g. Requires dissolution of the corporation at the request of one or more of the shareholders or upon the occurrence of a specified event or contingency.

h. Otherwise governs the exercise of the corporate powers or the management of the business and affairs of the corporation or the relationship among the shareholders, the directors, and the corporation, or among any of them, and is not contrary to public policy.

2. An agreement authorized by this section must satisfy all of the following requirements:

a. Be set forth in one of the following places and manners:

(1) The articles of incorporation or bylaws and approved by all persons who are shareholders at the time of the agreement.

(2) In a written agreement that is signed by all persons who are shareholders at the time of the agreement and is made known to the corporation.

b. Be subject to amendment only by all persons who are shareholders at the time of the amendment, unless the agreement provides otherwise.

c. Be valid for ten years, unless the agreement provides otherwise.

3. The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required by section 490.626, subsection 2. If at the time of the agreement the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares who, at the time of purchase, did not have knowledge of the existence of the agreement shall be entitled to rescission of the purchase. A purchaser shall be deemed to have knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the information statement is delivered to the purchaser at or prior to the time of purchase of the shares. An action to enforce the right of rescission authorized by this subsection must be commenced within the earlier of ninety days after discovery of the existence of the agreement or two years after the time of purchase of the shares.

4. An agreement authorized by this section shall cease to be effective when shares of the corporation are listed on a national securities exchange or regularly traced² in a market maintained by one or more members of a national or affiliated securities association. If the agreement ceases to be effective for any reason, the board of directors may, if the agreement is contained or referred to in the corporation's articles of incorporation or bylaws, adopt an amendment to the articles of incorporation or bylaws, without shareholder action, to delete the agreement and any references to it.

5. An agreement authorized by this section that limits the discretion or powers of the board of directors shall relieve the directors of, and impose upon the person or persons in whom such discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement.

6. The existence or performance of an agreement authorized by this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation even if the agreement or its performance treats the corporation as if it were a partnership or results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

7. Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares have been issued when the agreement is made.

Sec. 23. Section 490.740, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.740 DEFINITIONS.

In this part, unless the context otherwise requires:

1. "Derivative proceeding" means a civil suit in the right of a domestic corporation or, to the extent provided in section 490.747, in the right of a foreign corporation.
2. "Shareholder" includes a beneficial owner whose shares are held in a voting trust or held by a nominee on the beneficial owner's behalf.

Sec. 24. NEW SECTION. 490.741 STANDING.

A shareholder shall not commence or maintain a derivative proceeding unless the shareholder satisfies both of the following:

1. Was a shareholder of the corporation at the time of the act or omission complained of or became a shareholder through transfer by operation of law from one who was a shareholder at that time.
2. Fairly and adequately represents the interests of the corporation in enforcing the right of the corporation.

Sec. 25. NEW SECTION. 490.742 DEMAND.

A shareholder shall not commence a derivative proceeding until both of the following have occurred:

² See chapter 1175, §88 herein

1. A written demand has been made upon the corporation to take suitable action.
2. Ninety days have expired from the date the demand was made, unless the shareholder has earlier been notified that the demand has been rejected by the corporation or unless irreparable injury to the corporation would result by waiting for the expiration of the ninety-day period.

Sec. 26. NEW SECTION. 490.743 STAY OF PROCEEDINGS.

If the corporation commences an inquiry into the allegations made in the demand or complaint, the court may stay any derivative proceeding for a period of time as the court deems appropriate.

Sec. 27. NEW SECTION. 490.744 DISMISSAL.

1. A derivative proceeding shall be dismissed by the court on motion by the corporation if one of the groups specified in subsection 2 or 6 has determined in good faith after conducting a reasonable inquiry upon which its conclusions are based that the maintenance of the derivative proceeding is not in the best interests of the corporation. A corporation moving to dismiss on this basis shall submit in support of the motion a short and concise statement of the reasons for its determination.

2. Unless a panel is appointed pursuant to subsection 6, the determination in subsection 1 shall be made by one of the following:

a. A majority vote of independent directors present at a meeting of the board of directors if the independent directors constitute a quorum.

b. A majority vote of a committee consisting of two or more independent directors appointed by majority vote of independent directors present at a meeting of the board of directors, whether or not such independent directors constitute a quorum.

3. None of the following shall by itself cause a director to be considered not independent for purposes of this section:

a. The nomination or election of the director by persons who are defendants in the derivative proceeding or against whom action is demanded.

b. The naming of the director as a defendant in the derivative proceeding or as a person against whom action is demanded.

c. The approval by the director of the act being challenged in the derivative proceeding or demand if the act resulted in no personal benefit to the director.

4. If a derivative proceeding is commenced after a determination has been made rejecting a demand by a shareholder, the complaint shall allege with particularity facts establishing one of the following:

a. That a majority of the board of directors did not consist of independent directors at the time the determination was made.

b. That the requirements of subsection 1 have not been met.

All discovery and other proceedings shall be stayed during the pendency of any motion to dismiss unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

5. If a majority of the board of directors does not consist of independent directors at the time the determination is made, the corporation shall have the burden of proving that the requirements of subsection 1 have been met. If a majority of the board of directors consists of independent directors at the time the determination is made, the plaintiff shall have the burden of proving that the requirements of subsection 1 have not been met.

6. The court may appoint a panel of one or more independent persons upon motion by the corporation to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation. In such case, the plaintiff shall have the burden of proving that the requirements of subsection 1 have not been met.

Sec. 28. NEW SECTION. 490.745 DISCONTINUANCE OR SETTLEMENT.

A derivative proceeding shall not be discontinued or settled without the court's approval.

If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given to the shareholders affected.

Sec. 29. NEW SECTION. 490.746 PAYMENT OF EXPENSES.

On termination of the derivative proceeding, the court may do either of the following:

1. Order the corporation to pay the plaintiff's reasonable expenses, including attorney fees incurred in the proceeding, if it finds that the proceeding has resulted in a substantial benefit to the corporation.
2. Order the plaintiff to pay any defendant's reasonable expenses, including attorney fees incurred in defending the proceeding, if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose.

Sec. 30. NEW SECTION. 490.747 APPLICABILITY TO FOREIGN CORPORATIONS.

In any derivative proceeding in the right of a foreign corporation, the matters covered by this part shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation except for sections 490.743, 490.745, and 490.746.

Sec. 31. Section 490.801, Code 2001, is amended to read as follows:

490.801 REQUIREMENT FOR AND DUTIES OF BOARD OF DIRECTORS.

1. Except as provided in ~~subsection 3~~ section 490.732, each corporation must have a board of directors.
2. All corporate powers shall be exercised by or under the authority of, and the business and affairs of the corporation managed ~~by or~~ under the direction of, its board of directors, subject to any limitation set forth in the articles of incorporation, or in an agreement authorized under section 490.732.
3. ~~A corporation having fifty or fewer shareholders may dispense with or limit the authority of a board of directors by describing in its articles of incorporation who will perform some or all of the duties of a board of directors.~~

Sec. 32. Section 490.803, subsections 2, 3, and 4, Code 2001, are amended to read as follows:

2. ~~If a board of directors has power to fix or change the number of directors, the board may increase or decrease by thirty percent or less the number of directors last approved by the shareholders, but only the shareholders may increase or decrease by more than thirty percent the number of directors last approved by the shareholders. The number of directors may be increased or decreased from time to time by amendment to, or in the manner provided in, the articles of incorporation or the bylaws.~~
3. ~~The articles of incorporation or bylaws may establish a variable range for the size of the board of directors by fixing a minimum and maximum number of directors. If a variable range is established, the number of directors may be fixed or changed from time to time, within the minimum and maximum, by the shareholders or the board of directors. After shares are issued, only the shareholders may change the range for the size of the board or change from a fixed to a variable-range size board or vice versa.~~
4. 3. Directors are elected at the first annual shareholders' meeting and at each annual meeting thereafter unless their terms are staggered under section 490.806.

Sec. 33. Section 490.809, Code 2001, is amended to read as follows:

490.809 REMOVAL OF DIRECTORS BY JUDICIAL PROCEEDING.

1. The district court of the county where a corporation's principal office or, if none in this state, its registered office is located may remove a director of the corporation from office in a proceeding commenced ~~either by or in the right of~~ the corporation ~~or by its shareholders holding at least twenty percent of the outstanding shares of any class if the court finds that both of the following apply:~~

a. ~~The director engaged in fraudulent or dishonest conduct with respect to the corporation or its shareholders, grossly abused the position of director, or intentionally inflicted harm on the corporation.~~

b. ~~Removal is~~ Considering the director's course of conduct and the inadequacy of other available remedies, removal would be in the best interest of the corporation.

~~2. A shareholder proceeding on behalf of the corporation under subsection 1 shall comply with all of the requirements of division VII, part D, except section 490.741.~~

~~3. The court that removes a, in addition to removing the director, may bar the director from reelection for a period prescribed by the court.~~

~~3. If shareholders commence a proceeding under subsection 1, they shall make the corporation a party defendant.~~

~~4. This section does not limit the equitable powers of the court to order other relief.~~

Sec. 34. Section 490.821, Code 2001, is amended to read as follows:

490.821 ACTION WITHOUT MEETING.

1. ~~Unless~~ Except to the extent that the articles of incorporation or bylaws provide otherwise ~~require that action by the board of directors be taken at a meeting,~~ action required or permitted by this chapter to be taken ~~at a by the board of directors' meeting~~ directors may be taken without a meeting if the action is taken by all members of the board. ~~The action must be evidenced by one or more written consents each director signs a consent describing the action to be taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken and delivers it to the corporation.~~

2. Action taken under this section is effective ~~when the last director signs the consent, unless the consent specifies a different effective date~~ the act of the board of directors when one or more consents signed by all the directors are delivered to the corporation. The consent may specify the time at which the action taken is to be effective. A director's consent may be withdrawn by revocation signed by the director and delivered to the corporation prior to delivery to the corporation of unrevoked written consents signed by all the directors.

3. A consent signed under this section has the effect of a ~~meeting vote~~ an action taken at a meeting of the board of directors and may be described as such in any document.

Sec. 35. Section 490.824, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~Unless the articles of incorporation or bylaws require a different number, or unless otherwise specifically provided in this chapter,~~ a quorum of a board of directors consists of either:

Sec. 36. Section 490.825, Code 2001, is amended to read as follows:

490.825 COMMITTEES.

1. ~~Unless this chapter,~~ the articles of incorporation, ~~or the~~ bylaws provide otherwise, a board of directors may create one or more committees and appoint one or more members of the board of directors to serve on ~~them~~ any committee. ~~Each committee may have two or more members, who serve at the pleasure of the board of directors.~~

2. ~~The~~ Unless this chapter provides otherwise, the creation of a committee and appointment of members to it must be approved by the greater of either:

a. A majority of all the directors in office when the action is taken.

b. The number of directors required by the articles of incorporation or bylaws to take action under section 490.824.

3. ~~Sections 490.820 through 490.824, which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the board of directors,~~ apply both to committees of the board and to their members as well.

4. To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the authority powers of the board of directors under section 490.801.

5. A committee shall not, however:

- a. ~~Authorize or approve distributions, except according to formula or method, or within limits, prescribed by the board of directors.~~
 - b. Approve or propose to shareholders action that this chapter requires be approved by shareholders.
 - c. Fill vacancies on the board of directors or, subject to subsection 7, on any of its committees.
 - d. ~~Amend articles of incorporation pursuant to section 490.1002.~~
 - e. ~~d.~~ Adopt, amend, or repeal bylaws.
 - f. ~~Approve a plan of merger not requiring shareholder approval.~~
 - g. ~~Authorize or approve reacquisition of shares, except according to a formula or method prescribed by the board of directors.~~
 - h. ~~Authorize or approve the issuance or sale or contract for sale of shares, or determine the designation and relative rights, preferences, and limitations of a class or series of shares, except that the board of directors may authorize a committee or a senior executive officer of the corporation to do so within limits specifically prescribed by the board of directors.~~
6. The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in section 490.830.
7. The board of directors may appoint one or more directors as alternate members of any committee to replace any absent or disqualified member during the member's absence or disqualification. Unless the articles of incorporation or the bylaws or the resolution creating the committee provide otherwise, in the event of the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, unanimously, may appoint another director to act in place of the absent or disqualified member.

Sec. 37. Section 490.830, Code 2001, is amended to read as follows:

490.830 GENERAL STANDARDS OF CONDUCT FOR DIRECTORS.

1. ~~A director~~ Each member of the board of directors, when discharging the duties of a director, shall discharge that director's duties as a director, including the director's duties as a member of a committee act in conformity with all of the following:
- a. In good faith.
 - b. ~~With the care an ordinarily prudent person in a like position would exercise under similar circumstances.~~
 - e. ~~b.~~ In a manner the director reasonably believes to be in the best interests of the corporation.
2. ~~The members of the board of directors or a committee of the board, when becoming informed in connection with their decision-making function or devoting attention to their oversight function, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.~~
3. In discharging board or committee duties, a director who does not have knowledge that makes reliance unwarranted is entitled to rely on the performance by any of the persons specified in subsection 5, paragraph "a", to whom the board may have delegated, formally or informally by course of conduct, the authority or duty to perform one or more of the board's functions that are delegable under applicable law.
2. ~~4.~~ In discharging the director's board or committee duties a director, who does not have knowledge that makes reliance unwarranted, is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by any of the following: persons specified in subsection 5.
5. A director is entitled to rely, in accordance with subsection 3 or 4, on any of the following:
- a. One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the ~~matters presented~~ functions performed or the information, opinions, reports, or statements provided.
 - b. Legal counsel, public accountants, or other persons as to matters involving skills or expertise the director reasonably believes are either of the following:

(1) Matters within the particular person's professional or expert competence.

(2) Matters as to which the particular person merits confidence.

c. A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

~~3. A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection 2 unwarranted.~~

~~4. A director is not liable for any action taken as a director, or any failure to take any action, if the director performed the duties of the director's office in compliance with this section, or if, and to the extent that, liability for any such action or failure to act has been limited by the articles of incorporation pursuant to section 490.832.~~

Sec. 38. Section 490.831, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.831 STANDARDS OF LIABILITY FOR DIRECTORS.

1. A director shall not be liable to the corporation or its shareholders for any decision as director to take or not to take action, or any failure to take any action, unless the party asserting liability in a proceeding establishes both of the following:

a. That any provision in the articles of incorporation authorized by section 490.202, subsection 2, paragraph "d", or the protection afforded by section 490.832 if interposed as a bar to the proceeding by the director, does not preclude liability.

b. That the challenged conduct consisted or was the result of one of the following:

(1) Action not in good faith.

(2) A decision that satisfies one of the following:

(a) That the director did not reasonably believe to be in the best interests of the corporation.

(b) As to which the director was not informed to an extent the director reasonably believed appropriate in the circumstances.

(3) A lack of objectivity due to the director's familial, financial, or business relationship with, or a lack of independence due to the director's domination or control by, another person having a material interest in the challenged conduct, which also meets both of the following criteria:

(a) Which relationship or which domination or control could reasonably be expected to have affected the director's judgment respecting the challenged conduct in a manner adverse to the corporation.

(b) After a reasonable expectation to such effect has been established, the director shall not have established that the challenged conduct was reasonably believed by the director to be in the best interests of the corporation.

(4) A sustained failure of the director to devote attention to ongoing oversight of the business and affairs of the corporation, or a failure to devote timely attention, by making, or causing to be made, appropriate inquiry, when particular facts and circumstances of significant concern materialize that would alert a reasonably attentive director to the need for such oversight, attention, or inquiry.

(5) Receipt of a financial benefit to which the director was not entitled or any other breach of the director's duties to deal fairly with the corporation and its shareholders that is actionable under applicable law.

2. a. A party seeking to hold the director liable for money damages shall also have the burden of establishing both of the following:

(1) That harm to the corporation or its shareholders has been suffered.

(2) The harm suffered was proximately caused by the director's challenged conduct.

b. A party seeking to hold the director liable for other money payment under a legal remedy, such as compensation for the unauthorized use of corporate assets, shall also have whatever persuasion burden may be called for to establish that the payment sought is appropriate in the circumstances.

c. A party seeking to hold the director liable for other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, shall also have what-

ever persuasion burden may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

3. This section shall not do any of the following:

a. In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the corporation under section 490.861, subsection 2, paragraph "c", alter the burden of proving the fact or lack of fairness otherwise applicable.

b. Alter the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under section 490.833 or a transactional interest under section 490.861.

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

Sec. 39. Section 490.832, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.832 DIRECTOR CONFLICT OF INTEREST.

1. A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction is not voidable by the corporation solely because of the director's interest in the transaction if any one of the following is true:

a. The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved, or ratified the transaction.

b. The material facts of the transaction and the director's interest were disclosed or known to the shareholders entitled to vote and the shareholders authorized, approved, or ratified the transaction.

c. The transaction was fair to the corporation.

2. For purposes of this section, a director of the corporation has an indirect interest in a transaction if either of the following is true:

a. Another entity in which the director has a material financial interest or in which the director is a general partner is a party to the transaction.

b. Another entity of which the director is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the corporation.

3. For purposes of subsection 1, paragraph "a", a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors or on the committee, who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection 1, paragraph "a", if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

4. For purposes of subsection 1, paragraph "b", a conflict of interest transaction is authorized, approved, or ratified if it receives the vote of a majority of the shares entitled to be counted under this subsection. Shares owned by or voted under the control of a director who has a direct or indirect interest in the transaction, and shares owned by or voted under the control of an entity described in subsection 2, paragraph "a", shall not be counted in a vote of shareholders to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection 1, paragraph "b". The vote of those shares, however, is counted in determining whether the transaction is approved under other sections of this chapter. A majority of the shares, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

Sec. 40. Section 490.833, Code 2001, is amended to read as follows:

490.833 LIABILITY FOR UNLAWFUL DISTRIBUTION.

1. ~~Unless the director complies with the applicable standards of conduct described in section 490.830, a~~ A director who votes for or assents to a distribution ~~made in violation of this chapter or the articles of incorporation in excess of what may be authorized and made pursuant to section 490.640, subsection 1, or section 490.1409, subsection 1,~~ is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating ~~this chapter or the articles of incorporation~~ section 490.640, subsection 1, or section 490.1409, subsection 1, if the party asserting liability establishes that when taking the action the director did not comply with section 490.830.

2. A director held liable for an unlawful distribution under subsection 1 is entitled to ~~contribution from both of the following:~~

a. ~~Every Contribution from every other director who voted for or assented to the distribution without complying with the applicable standards of conduct described in section 490.830 could be held liable under subsection 1 for the unlawful distribution.~~

b. ~~Each Recoupment from each shareholder for of the pro rata portion of the amount of the unlawful distribution the shareholder accepted, knowing the distribution was made in violation of this chapter or the articles of incorporation~~ section 490.640, subsection 1, or section 490.1409, subsection 1.

3. a. A proceeding to enforce the liability of a director under subsection 1 is barred unless it is commenced within two years after one of the following dates:

(1) The date on which the effect of the distribution was measured under section 490.640, subsection 5 or 7.

(2) The date as of which the violation of section 490.640, subsection 1, occurred as the consequence of disregard of a restriction in the articles of incorporation.

(3) The date on which the distribution of assets to shareholders under section 490.1409, subsection 1, was made.

b. A proceeding to enforce contribution or recoupment under subsection 2 is barred unless it is commenced within one year after the liability of the claimant has been finally adjudicated under subsection 1.

Sec. 41. Section 490.840, Code 2001, is amended to read as follows:

490.840 REQUIRED OFFICERS.

1. A corporation has the ~~officers offices~~ offices described in its bylaws or ~~appointed~~ designated by the board of directors in accordance with the bylaws.

2. ~~A duly appointed~~ The board of directors may elect individuals to fill one or more offices of the corporation. An officer may appoint one or more officers ~~or assistant officers~~ if authorized by the bylaws or the board of directors.

3. The bylaws or the board of directors shall ~~delegate~~ assign to one of the officers responsibility for preparing minutes of the directors' and shareholders' meetings and for maintaining and authenticating the records of the corporation required to be kept under section 490.1601, subsections 1 and 5.

4. The same individual may simultaneously hold more than one office in a corporation.

Sec. 42. Section 490.842, Code 2001, is amended to read as follows:

490.842 STANDARDS OF CONDUCT FOR OFFICERS.

1. ~~An officer with discretionary authority shall discharge the officer's duties under that authority~~ when performing in such capacity shall act in conformity with all of the following:

a. In good faith.

b. With the care ~~an ordinarily prudent~~ that a person in a like position would reasonably exercise under similar circumstances.

c. In a manner the officer reasonably believes to be in the best interests of the corporation.

2. In discharging the ~~person's officer's~~ officer's duties an officer, who does not have knowledge that makes reliance unwarranted, is entitled to rely on information, opinions, reports, or state-

ments, including financial statements and other financial data, if prepared or presented by either any of the following:

a. The performance of properly delegated responsibilities by one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated.

~~a. b. One Information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one~~ or more officers or employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented.

~~b. c. Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the officer reasonably believes are matters within the particular person's professional or expert competence, or as to which the particular person merits confidence.~~

3. An officer is not acting in good faith if the officer has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection 2 unwarranted. An officer shall not be liable as an officer to the corporation or its shareholders for any decision to take or not to take action, or any failure to take any action, if the duties of the officer are performed in compliance with this section. Whether an officer who does not comply with this section shall have liability will depend in such instance on applicable law, including those principles of section 490.831 that have relevance.

~~4. An officer is not liable for any action taken as an officer, or any failure to take any action, if the officer performed the duties of the officer's office in compliance with this section.~~

Sec. 43. Section 490.843, Code 2001, is amended to read as follows:

490.843 RESIGNATION AND REMOVAL OF OFFICERS.

1. An officer may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is delivered unless the notice specifies a later effective date time. If a resignation is made effective at a later date time and the corporation board or appointing officer accepts the future effective date time, its the board of directors or the appointing officer may fill the pending vacancy before the effective date time if the board of directors or appointing officer provides that the successor does not take office until the effective date time. A resignation may be orally communicated provided that the resignation is effective only if written notice of the resignation is delivered within twenty-four hours of such oral communication.

2. A board of directors may remove any An officer may be removed at any time with or without cause by any of the following:

a. The board of directors.

b. The officer who appointed such officer, unless the bylaws or the board of directors provide otherwise.

c. Any other officer if authorized by the bylaws or the board of directors.

3. In this section, "appointing officer" means the officer, including any successor to that officer, who appointed the officer resigning or being removed.

Sec. 44. Section 490.850, Code 2001, is amended to read as follows:

490.850 DEFINITIONS.

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

1. "Corporation" includes any domestic or foreign predecessor entity of a corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction.

2. "Director" or "officer" means an individual who is or was a director or officer, respectively, of a corporation or an individual who, while a director or officer of a the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise entity. A director or officer is considered to be serving an employee benefit plan at the corporation's request if the director's duties to the

corporation also impose duties on, or otherwise involve services by, that director to the plan or to participants in or beneficiaries of the plan. "Director" or "officer" includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

3. "Disinterested director" means a director who at the time of a vote referred to in section 490.853, subsection 3, or a vote or selection referred to in section 490.855, subsection 2 or 3, is not either of the following:

a. A party to the proceeding.

b. An individual having a familial, financial, professional, or employment relationship with the director whose indemnification or advance for expenses is the subject of the decision being made, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the decision being made.

~~3.~~ 4. "Expenses" include includes counsel fees.

4. 5. "Liability" means the obligation to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

5. 6. "Official capacity" means:

a. When used with respect to a director, the office of director in a corporation.

b. When used with respect to an individual ~~other than a director~~ officer, as contemplated in section 490.856, the office in a corporation held by the officer ~~or the employment or agency relationship undertaken by the employee or agent on behalf of the corporation.~~

"Official capacity" does not include service for any other ~~foreign or domestic~~ or foreign corporation or any partnership, joint venture, trust, employee benefit plan, or other ~~enterprise~~ entity.

~~6.~~ 7. "Party" includes means an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

7. 8. "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

Sec. 45. Section 490.851, Code 2001, is amended to read as follows:

490.851 ~~AUTHORITY TO INDEMNIFY PERMISSIBLE INDEMNIFICATION.~~

1. Except as ~~otherwise~~ provided in ~~subsection 4~~ this section, a corporation may indemnify an individual ~~made~~ who is a party to a proceeding because the individual is ~~or was~~ a director against liability incurred in the proceeding if all of the following apply:

a. The individual acted in good faith.

b. The individual reasonably believed:

(1) In the case of conduct in the individual's official capacity ~~with the corporation~~, that the individual's conduct was in the ~~corporation's~~ best interests of the corporation.

(2) In all other cases, that the individual's conduct was at least not opposed to the ~~corporation's~~ best interests of the corporation.

c. In the case of any criminal proceeding, the individual had no reasonable cause to believe the individual's conduct was unlawful, or the individual engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of incorporation as authorized by section 490.202, subsection 2, paragraph "e".

2. A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subsection 1, paragraph "b", subparagraph (2).

3. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

4. Unless ordered by a court under section 490.854, subsection 1, paragraph "c", a corporation shall not indemnify a director under this section in either of the following circumstances:

a. In connection with a proceeding by or in the right of the corporation ~~in which the director was adjudged liable to the corporation,~~ except for reasonable expenses incurred in connection

with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection 1.

b. In connection with any other proceeding charging improper personal benefit to the director, whether or not involving action in the director's official capacity, in with respect to conduct for which the director was adjudged liable on the basis that personal the director received a financial benefit was improperly received by the director to which the director was not entitled, whether or not involving action in the director's official capacity.

5. Indemnification permitted under this section in connection with a proceeding by or in the right of the corporation is limited to reasonable expenses incurred in connection with the proceeding.

Sec. 46. Section 490.852, Code 2001, is amended to read as follows:

490.852 MANDATORY INDEMNIFICATION.

Unless limited by its articles of incorporation, a A corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because the director is or was a director of the corporation against reasonable expenses incurred by the director in connection with the proceeding.

Sec. 47. Section 490.853, Code 2001, is amended to read as follows:

490.853 ADVANCE FOR EXPENSES.

1. A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding because the person is a director if any of the person delivers all of the following apply to the corporation:

a. The director furnishes the corporation a A written affirmation of the director's good faith belief that the director has met the relevant standard of conduct described in section 490.851 or that the proceeding involved conduct for which liability has been eliminated under a provision of the articles of incorporation as authorized by section 490.202, subsection 2, paragraph "d".

b. The director furnishes the corporation a The director's written undertaking, executed personally or on the director's behalf, to repay the advance any funds advanced if the director is not entitled to mandatory indemnification under section 490.852 and it is ultimately determined under section 490.854 or section 490.855 that the director did not meet that has not met the relevant standard of conduct described in section 490.851.

c. A determination is made that the facts then known to those making the determination would not preclude indemnification under this part.

2. The undertaking required by subsection 1, paragraph "b", must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

3. Determinations and authorizations of payments Authorizations under this section shall be made in the manner specified in section 490.855 according to the³ one of the following:

a. By the board of directors:

(1) If there are two or more disinterested directors, by a majority vote of all the disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote.

(2) If there are fewer than two disinterested directors, by the vote necessary for action by the board in accordance with section 490.824, subsection 3, in which authorization directors who do not qualify as disinterested directors may participate.

b. By the shareholders, but shares owned by or voted under the control of a director who at the time does not qualify as a disinterested director may not be voted on the authorization.

Sec. 48. Section 490.854, Code 2001, is amended to read as follows:

490.854 COURT-ORDERED INDEMNIFICATION.

1. Unless a corporation's articles of incorporation provide otherwise, a A director of the

³ See chapter 1175, §89 herein

corporation who is a party to a proceeding because the person is a director may apply for indemnification or an advance for expenses to the court conducting the proceeding or to another court of competent jurisdiction. ~~On~~ After receipt of an application, ~~the court and~~ after giving any notice ~~the court~~ it considers necessary ~~may order, the court shall do one of the following:~~

a. Order indemnification if it the court determines either of the following:

1. The that the director is entitled to mandatory indemnification under section 490.852, in which case the court shall also order the corporation to pay the directors reasonable expenses incurred to obtain court-ordered indemnification.

2. The director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director met the standard of conduct set forth in section 490.851 or was adjudged liable as described in section 490.851, subsection 4, but if the director was adjudged so liable the director's indemnification is limited to reasonable expenses incurred.

b. Order indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorized by section 490.858, subsection 1.

c. Order indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable to do one of the following:

(1) To indemnify the director.

(2) To advance expenses to the director, even if the director has not met the relevant standard of conduct set forth in section 490.851, subsection 1, failed to comply with section 490.853 or was adjudged liable in a proceeding referred to in subsection 490.851, subsection 4, paragraph "a" or "b", but if the director was adjudged so liable the director's indemnification shall be limited to reasonable expenses incurred in connection with the proceeding.

2. If the court determines that the director is entitled to indemnification under subsection 1, paragraph "a", or to indemnification or advance for expenses under subsection 1, paragraph "b", it shall also order the corporation to pay the director's reasonable expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under subsection 1, paragraph "c", it may also order the corporation to pay the director's reasonable expenses to obtain court-ordered indemnification or advance for expenses.

Sec. 49. Section 490.855, Code 2001, is amended to read as follows:

490.855 DETERMINATION AND AUTHORIZATION OF INDEMNIFICATION.

1. A corporation shall not indemnify a director under section 490.851 unless authorized in the ~~for~~ for a specific case ~~proceeding~~ proceeding after a determination has been made that indemnification of the director is permissible ~~in the circumstances~~ because the director has met the relevant standard of conduct set forth in section 490.851.

2. The determination shall be made by any of the following:

a. ~~By the board of directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding. If there are two or more disinterested directors, by the board of directors by a majority vote of all the disinterested directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more disinterested directors appointed by such a vote.~~

b. ~~If a quorum cannot be obtained under paragraph "a", by majority vote of a committee duly designated by the board of directors, in which designation directors who are parties may participate, consisting solely of two or more directors not at the time parties to the proceeding.~~

c. ~~b.~~ By special legal counsel:

(1) ~~Selected by the board of directors or its committee in the manner prescribed in paragraph "a" or "b".~~

(2) ~~If a quorum of the board of there are fewer than two disinterested directors cannot be obtained under paragraph "a" and a committee cannot be designated under paragraph "b", selected by majority vote of the full board of directors, in which selection directors who are parties do not qualify as disinterested directors may participate.~~

~~d. c.~~ By the shareholders, but shares owned by or voted under the control of ~~directors a director~~ who are at the time parties to the proceeding does not qualify as a disinterested director shall not be voted on the determination.

3. Authorization of indemnification ~~and evaluation as to reasonableness of expenses~~ shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than two disinterested directors or if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subsection 2, paragraph "c" "b", to select special legal counsel.

Sec. 50. Section 490.856, Code 2001, is amended to read as follows:

490.856 INDEMNIFICATION OF OFFICERS, EMPLOYEES, AND AGENTS.

~~Unless a corporation's articles of incorporation provide otherwise all of the following apply:~~

~~1. An officer of the corporation who is not a director is entitled to mandatory indemnification under section 490.852, and is entitled to apply for court ordered indemnification under section 490.854, in each case to the same extent as a director.~~

~~2. 1. The A corporation may indemnify and advance expenses under this part to an officer, employee, or agent of the corporation who is not a director to a party to the proceeding because the person is an officer, according to all of the following:~~

~~a. To the same extent as to a director.~~

~~3. b. A corporation may also indemnify and advance expenses to an officer, employee, or agent who is not a director to the extent, consistent with law, that If the person is an officer but not a director, to such further extent as may be provided by its the articles of incorporation, the bylaws, general or specific action a resolution of its the board of directors, or contract, except for either of the following:~~

~~(1) Liability in connection with a proceeding by or in the right of the corporation other than for reasonable expenses incurred in connection with the proceeding.~~

~~(2) Liability arising out of conduct that constitutes any of the following:~~

~~(a) Receipt by the officer of a financial benefit to which the officer is not entitled.~~

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

~~(c) An intentional violation of criminal law.~~

~~2. The provisions of subsection 1, paragraph "b", shall apply to an officer who is also a director if the basis on which the officer is made a party to a proceeding is an act or omission solely as an officer.~~

~~3. An officer of a corporation who is not a director is entitled to mandatory indemnification under section 490.852, and may apply to a court under section 490.854 for indemnification or an advance for expenses, in each case to the same extent to which a director may be entitled to indemnification or advance for expenses under those provisions.~~

Sec. 51. Section 490.857, Code 2001, is amended to read as follows:

490.857 INSURANCE.

A corporation may purchase and maintain insurance on behalf of an individual who is ~~or was~~ a director; ~~or~~ officer, employee, or agent of the corporation, or who, while a director; ~~or~~ officer, employee, or agent of the corporation, is ~~or was serving~~ serves at the request of the corporation ~~corporation's request~~ as a director, officer, partner, trustee, employee, or agent of another ~~foreign or domestic~~ or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other ~~enterprise~~ entity, against liability asserted against or incurred by that individual in that capacity or arising from the individual's status as a director; ~~or~~ officer, employee, or agent, whether or not the corporation would have power to indemnify ~~or advance expenses to~~ that individual against the same liability under section ~~490.851 or 490.852~~ this part.

Sec. 52. Section 490.858, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.858 VARIATION BY CORPORATE ACTION — APPLICATION OF PART.

1. A corporation may, by a provision in its articles of incorporation or bylaws or in a resolu-

tion adopted or a contract approved by its board of directors or shareholders, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with section 490.851 or advance funds to pay for or reimburse expenses in accordance with section 490.853. Any such obligatory provision shall be deemed to satisfy the requirements for authorization referred to in section 490.853, subsection 3, and in section 490.855, subsection 3. Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall be deemed to obligate the corporation to advance funds to pay for or reimburse expenses in accordance with section 490.853 to the fullest extent permitted by law, unless the provision specifically provides otherwise.

2. Any provision pursuant to subsection 1 shall not obligate the corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor, unless otherwise specifically provided. Any provision for indemnification or advance for expenses in the articles of incorporation, bylaws, or a resolution of the board of directors or shareholders of a predecessor of the corporation in a merger or in a contract to which the predecessor is a party, existing at the time the merger takes effect, shall be governed by section 490.1106, subsection 1, paragraph "c".

3. A corporation may, by a provision in its articles of incorporation, limit any of the rights to indemnification or advance for expenses created by or pursuant to this part.

4. This part does not limit a corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with the director's or officer's appearance as a witness in a proceeding at a time when the director or officer is not a party.

5. This part does not limit a corporation's power to indemnify, advance expenses to, or provide or maintain insurance on behalf of an employee or agent.

Sec. 53. NEW SECTION. 490.859 EXCLUSIVITY OF PART.

A corporation may provide indemnification or advance expenses to a director or an officer only as permitted by this part.

Sec. 54. Section 490.1001, subsection 1, Code 2001, is amended to read as follows:

1. A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation ~~or to delete a provision not required in the articles of incorporation. Whether a provision is required or permitted in the articles of incorporation is determined as of the effective date of the amendment or to delete a provision that is not required to be contained in the articles of incorporation.~~

Sec. 55. Section 490.1002, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1002 AMENDMENT BEFORE ISSUANCE OF SHARES.

If a corporation has not yet issued shares, its board of directors, or its incorporators if it has no board of directors, may adopt one or more amendments to the corporation's articles of incorporation.

Sec. 56. Section 490.1003, Code 2001, is amended to read as follows:

490.1003 AMENDMENT BY BOARD OF DIRECTORS AND SHAREHOLDERS.

If a corporation has issued shares, an amendment to the articles of incorporation shall be adopted in the following manner:

1. ~~A corporation's The proposed amendment must be adopted by the board of directors may propose one or more amendments to the articles of incorporation for submission to the shareholders.~~

2. ~~For the amendment to be adopted both of the following must occur:~~

a. ~~2. The Except as provided in section⁴ 490.1005, 490.1007, and 490.1008, after adopting the proposed amendment, the board of directors must recommend submit the amendment to the shareholders for their approval. The board of directors must also transmit to the shareholders a recommendation that the shareholders approved the amendment, unless the board~~

⁴ See chapter 1175, §90 herein

of directors ~~determines~~ makes a determination that because of ~~conflict~~ conflicts of interest or other special circumstances it should not make ~~no such a~~ such a recommendation and ~~communicates, in which case the basis for its determination~~ board of directors must transmit to the shareholders ~~with the amendment~~ the basis for the determination.

b. ~~The shareholders entitled to vote on the amendment must approve the amendment as provided in subsection 5.~~

3. The board of directors may condition its submission of the ~~proposed amendment to the shareholders~~ on any basis.

4. ~~The corporation shall~~ If the amendment is required to be approved by the shareholders, and the approval is to be given at a meeting, the corporation must notify each shareholder, whether or not entitled to vote, of the ~~proposed shareholders' meeting in accordance with section 490.705 of shareholders at which the amendment is to be submitted for approval.~~ The notice of meeting must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and must contain or be accompanied by a copy ~~or summary~~ of the amendment.

5. ~~Unless this chapter, the articles of incorporation, bylaws, or the board of directors acting pursuant to subsection 3 requires a greater vote or a vote by voting groups, the amendment to be adopted must be approved by both of the following:~~

a. ~~A greater number of shares to be present, approval of the amendment requires the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the amendment exists, and, if any class or series of shares is entitled to vote as a separate group on the amendment, except as provided in section 490.1004, subsection 3, the approval of each such separate voting group at a meeting at which a quorum of the voting group consisting of at least a majority of the votes entitled to be cast on the amendment by any voting group with respect to which the amendment would create dissenters' rights that voting group exists.~~

b. ~~The votes required by sections 490.725 and 490.726 by every other voting group entitled to vote on the amendment.~~

Sec. 57. Section 490.1004, subsections 1, 2, and 3, Code 2001, are amended to read as follows:

1. ~~The~~ If a corporation has more than one class of shares outstanding, the holders of the outstanding shares of a class are entitled to vote as a separate voting group, if shareholder voting is otherwise required by this chapter, on a proposed amendment to the articles of incorporation if the amendment would do any of the following:

a. ~~Increase or decrease the aggregate number of authorized shares of the class.~~

b. ~~a.~~ Effect an exchange or reclassification of all or part of the shares of the class into shares of another class.

e. ~~b.~~ Effect an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of ~~that~~ the class.

d. ~~c.~~ Change the ~~designation~~, rights, preferences, or limitations of all or part of the shares of the class.

e. ~~d.~~ Change the shares of all or part of the class into a different number of shares of the same class.

f. ~~e.~~ Create a new class of shares having rights or preferences with respect to distributions or to dissolution that are prior, ~~or~~ superior, ~~or substantially equal to,~~ the shares of the class.

g. ~~f.~~ Increase the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior, ~~or~~ superior, ~~or substantially equal to~~ the shares of the class.

h. ~~g.~~ Limit or deny an existing preemptive right of all or part of the shares of the class.

i. ~~h.~~ Cancel or otherwise affect rights to distributions ~~or dividends~~ that have accumulated but not yet been declared authorized on all or part of the shares of the class.

2. If a proposed amendment would affect a series of a class of shares in one or more of the

ways described in subsection 1, the holders of shares of that series are entitled to vote as a separate voting group on the proposed amendment.

3. If a proposed amendment that entitles the holders of two or more classes or series of shares to vote as separate voting groups under this section would affect those two or more classes or series in the same or a substantially similar way, the holders of shares of all the classes or series so affected must vote together as a single voting group on the proposed amendment, unless otherwise provided in the articles of incorporation or required by the board of directors.

Sec. 58. Section 490.1005, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1005 AMENDMENT BY BOARD OF DIRECTORS.

Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt amendments to the corporation's articles of incorporation without shareholder approval for any of the following purposes:

1. To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law.
2. To delete the names and addresses of the initial directors.
3. To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the secretary of state.
4. If the corporation has only one class of shares outstanding:
 - a. To change each issued and unissued authorized share of the class into a greater number of whole shares of that class.
 - b. To increase the number of authorized shares of the class to the extent necessary to permit the issuance of shares as a share dividend.
5. To change the corporate name by substituting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name.
6. To reflect a reduction in authorized shares, as a result of the operation of section 490.631, subsection 2, when the corporation has acquired its own shares and the articles of incorporation prohibit the reissue of the acquired shares.
7. To delete a class of shares from the articles of incorporation, as a result of the operation of section 490.631, subsection 2, when there are no remaining shares of the class because the corporation has acquired all shares of the class and the articles of incorporation prohibit the reissue of the acquired shares.
8. To make any change expressly permitted by section 490.602, subsection 4, to be made without shareholder approval.

Sec. 59. Section 490.1006, Code 2001, is amended to read as follows:

490.1006 ARTICLES OF AMENDMENT.

~~A corporation amending its articles of incorporation~~ After an amendment to the articles of incorporation has been adopted and approved in the manner required by this chapter and by the articles of incorporation, the corporation shall deliver to the secretary of state, for filing, articles of amendment setting, which shall set forth the following:

1. The name of the corporation.
2. The text of each amendment adopted.
3. If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself.
4. The date of each amendment's adoption.
5. If an amendment was adopted by the incorporators or board of directors without shareholder action approval, a statement ~~to that effect that the amendment was duly approved by the incorporators or by the board of directors, as the case may be,~~ and that shareholder action approval was not required.

6. If an amendment was approved ~~required approval~~ by the shareholders: a statement that the amendment was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation.

a. ~~The designation, number of outstanding shares, number of votes entitled to be cast by each voting group entitled to vote separately on the amendment, and number of votes of each voting group indisputably represented at the meeting.~~

b. ~~Either the total number of votes cast for and against the amendment by each voting group entitled to vote separately on the amendment or the total number of undisputed votes cast for the amendment by each voting group and a statement that the number cast for the amendment by each voting group was sufficient for approval by that voting group.~~

Sec. 60. Section 490.1007, Code 2001, is amended to read as follows:

490.1007 RESTATED ARTICLES OF INCORPORATION.

1. A corporation's board of directors may restate its articles of incorporation at any time with or without shareholder ~~action~~ approval, to consolidate all amendments into a single document.

2. ~~The restatement may~~ If the restated articles include one or more new amendments to the articles. If the restatement includes an amendment requiring that require shareholder approval, it the amendments must be adopted and approved as provided in section 490.1003.

3. ~~If the board of directors submits a restatement for shareholder action, the corporation shall notify each shareholder whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 490.705. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and contain or be accompanied by a copy of the restatement that identifies any amendment or other change it would make in the articles.~~

4. ~~3.~~ A corporation restating that restates its articles of incorporation shall deliver to the secretary of state for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate ~~setting forth: that states that the restated articles consolidate all amendments into a single document and, if a new amendment is included in the restated articles, that also include the statements required under section 490.1006.~~

a. ~~Whether the restatement contains an amendment to the articles requiring shareholder approval and, if it does not, that the board of directors adopted the restatement.~~

b. ~~If the restatement contains an amendment to the articles requiring shareholder approval, the information required by section 490.1006.~~

5. ~~4.~~ Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to them the original articles of incorporation.

6. ~~5.~~ The secretary of state may certify restated articles of incorporation, as the articles of incorporation currently in effect, without including the certificate information required by subsection 4 ~~3.~~

Sec. 61. Section 490.1008, subsections 1, 3, and 4, Code 2001, are amended to read as follows:

1. A corporation's articles of incorporation may be amended without action by the board of directors or shareholders to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under ~~federal statute if the articles of incorporation after amendment contain only provisions required or permitted by section 490.202~~ the authority of law of the United States.

3. ~~Shareholders of a corporation undergoing reorganization do not have dissenters' rights except as and to the extent provided in the reorganization plan.~~

4. ~~3.~~ This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

Sec. 62. Section 490.1009, Code 2001, is amended to read as follows:
490.1009 EFFECT OF AMENDMENT.

An amendment to the articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than shareholders of the corporation. An amendment changing a corporation's name does not abate a proceeding brought by or against the corporation in its former name.

Sec. 63. Section 490.1020, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1020 AMENDMENT OF BYLAWS BY BOARD OF DIRECTORS OR SHAREHOLDERS.

1. A corporation's shareholders may amend or repeal the corporation's bylaws.
2. A corporation's board of directors may amend or repeal the corporation's bylaws unless either of the following apply:
 - a. The articles of incorporation or section 490.1021 reserve that power exclusively to the shareholders in whole or in part.
 - b. The shareholders in amending, repealing, or adopting a bylaw expressly provide that the board of directors shall not amend, repeal, or reinstate that bylaw.

Sec. 64. Section 490.1021, Code 2001, is amended to read as follows:

490.1021 BYLAW INCREASING QUORUM OR VOTING REQUIREMENT FOR SHAREHOLDERS DIRECTORS.

1. ~~If authorized by the articles of incorporation, the shareholders may adopt or amend a bylaw that fixes a greater~~ A bylaw that increases a quorum or voting requirement for the board of directors may be amended or repealed as follows:

a. If adopted by the shareholders, only by the shareholders, unless the bylaws otherwise provide.

b. If adopted by the board of directors, either by the shareholders or voting groups of shareholders than is required by this chapter by the board of directors. The adoption or amendment of a bylaw that adds, changes, or deletes a greater

2. A bylaw adopted or amended by the shareholders that increases a quorum or voting requirement for the board of directors may provide that it can be amended or repealed only by a specified vote of either the shareholders or the board of directors.

3. Action by the board of directors under subsection 1 to amend or repeal a bylaw that changes the quorum or voting requirement for the board of directors must meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

2. A bylaw that fixes a greater quorum or voting requirement for shareholders under subsection 1 shall not be adopted, amended, or repealed by the board of directors.

Sec. 65. Section 490.1101, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1101 DEFINITIONS.

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

1. "Interests" means the proprietary interests in an other entity.
2. "Merger" means a business combination pursuant to section 490.1102.
3. "Organizational documents" means the basic document or documents that create, or determine the internal governance of, an other entity.
4. "Other entity" means any association or legal entity, other than a domestic or foreign corporation, organized to conduct business, including, without limitation, limited partnerships, general partnerships, limited liability partnerships, limited liability companies, joint ventures, joint stock companies, and business trusts.
5. "Party to a merger" or "party to a share exchange" means any domestic or foreign corporation or other entity that will accomplish one of the following during a merger:

- a. Merge under a plan of merger.
 - b. Acquire shares or interests of another corporation or an other entity in a share exchange.
 - c. Have all of its shares or interests or all of one or more classes or series of its shares or interests acquired in a share exchange.
6. "Share exchange" means a business combination pursuant to section 490.1103.
7. "Survivor" in a merger means the corporation or other entity into which one or more other corporations or other entities are merged. A survivor of a merger may preexist the merger or be created by the merger.

Sec. 66. Section 490.1102, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1102 MERGER.

1. One or more domestic corporations may merge with a domestic or foreign corporation or other entity pursuant to a plan of merger.
2. A foreign corporation, or domestic or foreign other entity, may be a party to the merger, or may be created by the terms of the plan of merger, only if both of the following are satisfied:
 - a. The merger is permitted by the laws under which the corporation or other entity is organized or by which it is governed.
 - b. In effecting the merger, the corporation or other entity complies with such laws and with its articles of incorporation or organizational documents.
3. The plan of merger must include all of the following:
 - a. The name of each corporation or other entity that will merge and the name of the corporation or other entity that will be the survivor of the merger.
 - b. The terms and conditions of the merger.
 - c. The manner and basis of converting the shares of each merging corporation and interests of each merging other entity into shares, or other securities, interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing.
 - d. The articles of incorporation of any corporation, or the organizational documents of any other entity, to be created by the merger, or if a new corporation or other entity is not to be created by the merger, any amendments to the survivor's articles of incorporation or organizational documents.
 - e. Any other provisions required by the laws under which any party to the merger is organized or by which it is governed, or by the articles of incorporation or organizational documents of any such party.
4. The terms described in subsection 3, paragraphs "b" and "c", may be made dependent on facts ascertainable outside the plan of merger, provided that those facts are objectively ascertainable. The term "facts" includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.
5. The plan of merger may also include a provision that the plan may be amended prior to filing the articles of merger with the secretary of state, provided that if the shareholders of a domestic corporation that is a party to the merger are required or permitted to vote on the plan, the plan must provide that subsequent to approval of the plan by such shareholders the plan shall not be amended to change any of the following:
 - a. Change the amount or kind of shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, or other property to be received by the shareholders of or owners of interests in any party to the merger upon conversion of their shares or interests under the plan.
 - b. Change the articles of incorporation of any corporation, or the organizational documents of any other entity, that will survive or be created as a result of the merger, except for changes permitted by section 490.1005 or by comparable provisions of the laws under which the foreign corporation or other entity is organized or governed.
 - c. Change any of the other terms or conditions of the plan if the change would adversely affect such shareholders in any material respect.

Sec. 67. Section 490.1103, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1103 SHARE EXCHANGE.

1. Either of the following may occur through a share exchange:
 - a. A domestic corporation may acquire all of the shares of one or more classes or series of shares of another domestic or foreign corporation, or all of the interests of one or more classes or series of interests of a domestic or foreign other entity, in exchange for shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange.
 - b. All of the shares of one or more classes or series of shares of a domestic corporation may be acquired by another domestic or foreign corporation or other entity, in exchange for shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange.
2. A foreign corporation, or a domestic or foreign other entity, may be a party to the share exchange only if both of the following conditions are met:
 - a. The share exchange is permitted by the laws under which the corporation or other entity is organized or by which it is governed.
 - b. In effecting the share exchange, the corporation or other entity complies with such laws and with its articles of incorporation or organizational documents.
3. The plan of share exchange must include all of the following:
 - a. The name of each corporation or other entity whose shares or interests will be acquired and the name of the corporation or other entity that will acquire those shares or interests.
 - b. The terms and conditions of the share exchange.
 - c. The manner and basis of exchanging shares of a corporation or interests in an other entity whose shares or interests will be acquired under the share exchange into shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing.
 - d. Any other provisions required by the laws under which any party to the share exchange is organized or by the articles of incorporation or organizational documents of any such party.
4. The terms described in subsection 3, paragraphs "b" and "c", may be made dependent on facts ascertainable outside the plan of share exchange, provided that those facts are objectively ascertainable. The term "facts" includes, but is not limited to, the occurrence of any event, including a determination or action by any person or body, including the corporation.
5. The plan of share exchange may also include a provision that the plan may be amended prior to filing of the articles of share exchange with the secretary of state, provided that if the shareholders of a domestic corporation that is a party to the share exchange are required or permitted to vote on the plan, the plan must provide that subsequent to approval of the plan by such shareholders the plan shall not be amended to change either of the following:
 - a. The amount or kind of shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, or other property to be issued by the corporation or to be received by the shareholders of or owners of interests in any party to the share exchange in exchange for their shares or interests under the plan.
 - b. Any of the terms or conditions of the plan if the change would adversely affect such shareholders in any material respect.
6. This section does not limit the power of a domestic corporation to acquire shares of another corporation or interests in an other entity in a transaction other than a share exchange.

Sec. 68. Section 490.1104, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1104 ACTION ON A PLAN OF MERGER OR SHARE EXCHANGE.

In the case of a domestic corporation that is a party to a merger or share exchange:

1. The plan of merger or share exchange must be adopted by the board of directors.
2. Except as provided in subsection 7 and in section 490.1105, after adopting the plan of merger or share exchange the board of directors must submit the plan to the shareholders for

their approval. The board of directors must also transmit to the shareholders a recommendation that the shareholders approve the plan, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board of directors must transmit to the shareholders the basis for that determination.

3. The board of directors may condition its submission of the plan of merger or share exchange to the shareholders on any basis.

4. If the plan of merger or share exchange is required to be approved by the shareholders, and if the approval is to be given at a meeting, the corporation must notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the plan is to be submitted for approval. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the plan and must contain or be accompanied by a copy or summary of the plan. If the corporation is to be merged into an existing corporation or other entity, the notice shall also include or be accompanied by a copy or summary of the articles of incorporation or organizational documents of that corporation or other entity. If the corporation is to be merged into a corporation or other entity that is to be created pursuant to the merger, the notice shall include or be accompanied by a copy or summary of the articles of incorporation or organizational documents of the new corporation or other entity.

5. Unless the articles of incorporation, bylaws, or the board of directors require a greater vote or a greater number of votes to be present, the approval of the plan of merger or share exchange shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the plan exists, and, if any class or series of shares is entitled to vote as a separate group on the plan of merger or share exchange, the approval of each such separate voting group at a meeting at which a quorum of the voting group consisting of at least a majority of the votes entitled to be cast on the merger or share exchange by that voting group is present.

6. Separate voting by voting groups is required for each of the following:

a. On a plan of merger, by each class or series of shares that are to be converted, pursuant to the provisions of the plan of merger, into shares or other securities, interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, or would have a right to vote as a separate group on a provision in the plan that, if contained in a proposed amendment to articles of incorporation, would require action by separate voting groups under section 490.1004.

b. On a plan of share exchange, by each class or series of shares included in the exchange, with each class or series constituting a separate voting group.

c. On a plan of merger or share exchange, if the voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of merger or share exchange.

7. Unless the articles of incorporation otherwise provide, approval by the corporation's shareholders of a plan of merger or share exchange is not required if all of the following conditions are satisfied:

a. The corporation will survive the merger or is the acquiring corporation in a share exchange.

b. Except for amendments permitted by section 490.1005, its articles of incorporation will not be changed.

c. Each shareholder of the corporation whose shares were outstanding immediately before the effective date of the merger or share exchange will hold the same number of shares, with identical preferences, limitations, and relative rights, immediately after the effective date of change.

d. The issuance in the merger or share exchange of shares or other securities convertible into or rights exercisable for shares does not require a vote under section 490.621, subsection 6.

8. If as a result of a merger or share exchange one or more shareholders of a domestic corporation would become subject to personal liability for the obligations or liabilities of any other

person or other entity, approval of the plan of merger shall require the execution, by each such shareholder, of a separate written consent to become subject to such personal liability.

Sec. 69. Section 490.1105, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1105 MERGER BETWEEN PARENT AND SUBSIDIARY OR BETWEEN SUBSIDIARIES.

1. A domestic parent corporation that owns shares of a domestic or foreign subsidiary corporation that carry at least ninety percent of the voting power of each class and series of the outstanding shares of the subsidiary that have voting power may merge the subsidiary into itself or into another such subsidiary, or merge itself into the subsidiary, without the approval of the board of directors or shareholders of the subsidiary unless the articles of incorporation of any of the corporations otherwise provide, and unless, in the case of a foreign subsidiary, approval by the subsidiary's board of directors or shareholders is required by the laws under which the subsidiary is organized.

2. If under subsection 1 approval of a merger by the subsidiary's shareholders is not required, the parent corporation shall, within ten days after the effective date of the merger, notify each of the subsidiary's shareholders that the merger has become effective.

3. Except as provided in subsections 1 and 2, a merger between a parent and subsidiary shall be governed by the provisions of this division, applicable to mergers generally.

Sec. 70. Section 490.1106, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1106 ARTICLES OF MERGER OR SHARE EXCHANGE.

1. After a plan of merger or share exchange has been adopted and approved as required by this chapter, articles of merger or share exchange shall be executed on behalf of each party to the merger or share exchange by any officer or other duly authorized representative. The articles shall set forth the following:

a. The names of the parties to the merger or share exchange and the date on which the merger or share exchange occurred or is to be effective.

b. If the articles of incorporation of the survivor of a merger are amended, or if a new corporation is created as a result of a merger, the amendments to the survivor's articles of incorporation or the articles of incorporation of the new corporation.

c. If the plan of merger or share exchange required approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement that the plan was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation.

d. If the plan of merger or share exchange did not require approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement to that effect.

e. As to each foreign corporation and each other entity that was a party to the merger or share exchange, a statement that the plan and the performance of its terms were duly authorized by all action required by the laws under which the corporation or other entity is organized or by which it is governed, and by its articles of incorporation or organizational documents.

2. Articles of merger or share exchange shall be delivered to the secretary of state for filing by the survivor of the merger or the acquiring corporation in a share exchange and shall take effect on the effective date of the merger or share exchange.

Sec. 71. Section 490.1107, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1107 EFFECT OF MERGER OR SHARE EXCHANGE.

1. When a merger becomes effective, certain acts shall occur as follows:

- a. The corporation or other entity that is designated in the plan of merger as the survivor continues or comes into existence, as the case may be.
 - b. The separate existence of every corporation or other entity that is merged into the survivor ceases.
 - c. All property owned by, and every contract right possessed by, each corporation or other entity that merges into the survivor is vested in the survivor without reversion or impairment.
 - d. All liabilities of each corporation or other entity that is merged into the survivor are vested in the survivor.
 - e. The name of the survivor may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger.
 - f. The articles of incorporation or organizational documents of the survivor are amended to the extent provided in the plan of merger.
 - g. The articles of incorporation or organizational documents of a survivor that is created by the merger become effective.
 - h. The shares of each corporation that is a party to the merger, and the interests in another entity that is a party to a merger, that are to be converted under the plan of merger into shares, interests, obligations, rights to acquire securities, other securities, cash, other property, or any combination of the foregoing, are converted, and the former holders of such shares or interests are entitled only to the rights provided to them in the plan of merger or to any rights they may have under division XIII.
2. When a share exchange becomes effective, the shares of each domestic corporation that are to be exchanged for shares or other securities, interests, obligations, rights to acquire shares or securities, other securities, cash, other property, or any combination of the foregoing, are entitled only to the rights provided to them in the plan of share exchange or to any rights they may have under division XIII.
 3. Any shareholder of a domestic corporation that is a party to a merger or share exchange who, prior to the merger or share exchange, was liable for the liabilities or obligations of such corporation, shall not be released from such liabilities or obligations by reason of the merger or share exchange.
 4. Upon a merger becoming effective, a foreign corporation, or a foreign other entity, that is the survivor of the mergers, is deemed to do both of the following:
 - a. Appoint the secretary of state as its agent for service of process in a proceeding to enforce the rights of shareholders of each domestic corporation that is a party to the merger who exercise appraisal rights.
 - b. Agree that it will promptly pay the amount, if any, to which such shareholders are entitled under division XIII.

Sec. 72. Section 490.1108, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1108 ABANDONMENT OF A MERGER OR SHARE EXCHANGE.

1. Unless otherwise provided in a plan of merger or share exchange or in the laws under which a foreign corporation or a domestic or foreign other entity that is a party to a merger or a share exchange is organized or by which it is governed, after the plan has been adopted and approved as required by this division, and at any time before the merger or share exchange has become effective, it may be abandoned by any party to the merger or share exchange without action by the party's shareholders or owners of interests, in accordance with any procedures set forth in the plan of merger or share exchange or, if no such procedures are set forth in the plan, in the manner determined by the board of directors of a corporation, or the managers of any other entity, subject to any contractual rights of other parties to the merger or share exchange.
2. If a merger or share exchange is abandoned under subsection 1 after articles of merger or share exchange have been filed with the secretary of state but before the merger or share exchange has become effective, a statement that the merger or share exchange has been abandoned in accordance with this section, executed on behalf of a party to the merger or share

exchange by an officer or other duly authorized representative, shall be delivered to the secretary of state for filing prior to the effective date of the merger or share exchange. Upon filing, the statement shall take effect and the merger or share exchange shall be deemed abandoned and shall not become effective.

Sec. 73. NEW SECTION. 490.1108A CONSIDERATION OF ACQUISITION PROPOSALS — COMMUNITY INTERESTS.

1. A director, in determining what is in the best interest of the corporation when considering a tender offer or proposal of acquisition, merger, consolidation, or similar proposal, may consider any or all of the following community interest factors, in addition to consideration of the effects of any action on shareholders:

- a. The effects of the action on the corporation's employees, suppliers, creditors, and customers.
- b. The effects of the action on the communities in which the corporation operates.
- c. The long-term as well as short-term interests of the corporation and its shareholders, including the possibility that these interests may be best served by the continued independence of the corporation.

2. If on the basis of the community interest factors described in subsection 1, the board of directors determines that a proposal or offer to acquire or merge the corporation is not in the best interests of the corporation, it may reject the proposal or offer. If the board of directors determines to reject any such proposal or offer, the board of directors has no obligation to facilitate, to remove any barriers to, or to refrain from impeding, the proposal or offer. Consideration of any or all of the community interest factors is not a violation of the business judgment rule or of any duty of the director to the shareholders, or a group of shareholders, even if the director reasonably determines that a community interest factor or factors outweigh the financial or other benefits to the corporation or a shareholder or group of shareholders.

Sec. 74. Section 490.1110, subsection 2, paragraph f, subparagraph (2), subparagraph subdivision (a), Code 2001, is amended to read as follows:

- (a) A merger of the corporation, other than a merger pursuant to section ~~490.1104~~ 490.1105.

Sec. 75. Section 490.1110, subsection 3, paragraph c, subparagraph (3), subparagraph subdivision (b), Code 2001, is amended to read as follows:

- (b) Pursuant to a merger under section ~~490.1104~~ 490.1105.

Sec. 76. Section 490.1201, Code 2001, is amended to read as follows:

~~490.1201 SALE DISPOSITION OF ASSETS IN REGULAR COURSE OF BUSINESS AND MORTGAGE OF ASSETS NOT REQUIRING SHAREHOLDER APPROVAL.~~

~~1. A corporation may, on the terms and conditions and for the consideration determined by the board of directors~~ Approval of the shareholders of a corporation is not required to do any of the following, unless the articles of incorporation otherwise provide:

- a. ~~1. Sell~~ To sell, lease, exchange, or otherwise dispose of ~~all, or substantially all, of its property any or all of the corporation's assets~~ in the usual and regular course of business.
- b. ~~2. Mortgage~~ To mortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of ~~its property~~ the corporation's assets, whether or not in the usual and regular course of business.
- c. ~~3. Transfer~~ To transfer any or all of its property to a corporation ~~all the shares the corporation's assets to one or more corporations or other entities all of the shares or interests of which are owned by the transferring corporation whether or not in the usual course of business.~~

~~2. Unless the articles of incorporation require it, approval by the shareholders of a transaction described in subsection 1 is not required.~~

~~4. To distribute assets pro rata to the holders of one or more classes or series of the corporation's shares.~~

Sec. 77. Section 490.1202, Code 2001, is amended to read as follows:

490.1202 SALE OF ASSETS OTHER THAN IN REGULAR COURSE OF BUSINESS
SHAREHOLDER APPROVAL OF CERTAIN DISPOSITIONS.

1. A corporation may sell ~~sale~~, lease, exchange, or otherwise dispose of all, or substantially all, of its property, with or without the good will, otherwise than in the usual and regular course of business, on the terms and conditions and for the consideration determined by other disposition of assets, other than a disposition described in section 490.1201, requires approval of the corporation's board of directors, if corporation's shareholders if the disposition would leave the corporation without a significant continuing business activity. If a corporation retains a business activity that represented at least twenty-five percent of total assets at the end of the most recently completed fiscal year, and twenty-five percent of either income from continuing operations before taxes or revenues from continuing operations for that fiscal year, in each case of the corporation and its subsidiaries on a consolidated basis, the corporation will conclusively be deemed to have retained a significant continuing business activity; but no presumption that the disposition will leave the corporation without a significant continuing business activity shall arise from the fact that the corporation's continuing business activity does not equal or exceed any of these percentages.

2. A disposition that requires approval of the shareholders under subsection 1 shall be initiated by a resolution by the board of directors ~~proposes and its~~ authorizing the disposition. After adoption of such a resolution, the board of directors shall submit the proposed disposition to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the proposed transaction.

2. For a transaction to be authorized both of the following must occur:

a. The board of directors must recommend the proposed transaction to the shareholders disposition, unless the board of directors determines makes a determination that because of conflict conflicts of interest or other special circumstances it should not make no such a recommendation and communicates, in which case the basis for its determination board of directors shall transmit to the shareholders with the submission of the proposed transaction basis for that determination.

b. The shareholders entitled to vote must approve the transaction.

3. The board of directors may condition its submission of a disposition to the proposed transaction shareholders under subsection 2 on any basis.

4. ~~The~~ If a disposition is required to be approved by the shareholders under subsection 1, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the ~~proposed shareholders' meeting in accordance with section 490.705 meeting of shareholders at which the disposition is to be submitted for approval.~~ The notice must also shall state that the purpose, or one of the purposes, of the meeting is to consider the sale, lease, exchange, or other disposition of all, or substantially all, the property of the corporation and ~~contain or be accompanied by~~ and shall contain a description of the transaction disposition, including the terms and conditions of the disposition and the consideration to be received by the corporation.

5. Unless the articles of incorporation, bylaws, or the board of directors acting pursuant to subsection 3 require a greater vote or a vote by voting groups, ~~the transaction to be authorized must be approved by a majority of all greater number of votes to be present, the approval of a disposition by the shareholders shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the transaction disposition exists.~~

6. After a sale, lease, exchange, or other disposition of property is authorized, the transaction disposition has been approved by the shareholders under subsection 2, and at any time before the disposition has been consummated, it may be abandoned by the corporation without action by the shareholders, subject to any contractual rights without further shareholder action of other parties to the disposition.

7. ~~A transaction that constitutes a distribution is governed by section 490.640 and not by this section. A disposition of assets in the course of dissolution under division XIV is not governed by this section.~~

8. The assets of a direct or indirect consolidated subsidiary shall be deemed the assets of the parent corporation for the purposes of this section.

Sec. 78. Section 490.1301, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1301 DEFINITIONS.

In this division, unless the context otherwise requires:

1. "Affiliate" means a person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another person or is a senior executive thereof. For purposes of section 490.1302, subsection 2, paragraph "d", a person is deemed to be an affiliate of its senior executives.

2. "Beneficial shareholder" means a person who is the beneficial owner of shares held in a voting trust or by a nominee on the beneficial owner's behalf.

3. "Corporation" means the issuer of the shares held by a shareholder demanding appraisal. In addition, for matters covered in sections 490.1322 through 490.1331, "corporation" includes the surviving entity in a merger.

4. "Fair value" means the value of the corporation's shares determined according to the following:

a. Immediately before the effectuation of the corporate action to which the shareholder objects.

b. Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal.

c. Without discounting for lack of marketability or minority status except, if appropriate, for amendments to the articles pursuant to section 490.1302, subsection 1, paragraph "e".

With respect to shares of a corporation that is a bank holding company as defined in section 524.1801, the factors identified in section 524.1406, subsection 3, paragraph "a", shall also be considered in determining fair value.

5. "Interest" means interest from the effective date of the corporate action until the date of payment, at the rate of interest on judgments in this state on the effective date of the corporate action.

6. "Preferred shares" means a class or series of shares whose holders have preference over any other class or series with respect to distributions.

7. "Record shareholder" means the person in whose name shares are registered in the records of the corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with the corporation.

8. "Senior executive" means the chief executive officer, chief operating officer, chief financial officer, and anyone in charge of a principal business unit or function.

9. "Shareholder" means both a record shareholder and a beneficial shareholder.

Sec. 79. Section 490.1302, Code 2001, is amended to read as follows:

490.1302 SHAREHOLDERS' RIGHT TO ~~DISSENT~~ APPRAISAL.

1. A shareholder is entitled to ~~dissent from appraisal rights~~, and to obtain payment of the fair value of the shareholder's shares, in the event of, any of the following corporate actions:

a. Consummation of a ~~plan of merger~~ to which the corporation is a party if either of the following apply:

(1) ~~Shareholder approval is required for the merger by section 490.1103 or the articles of incorporation and the shareholder is entitled to vote on the merger 490.1104 and the shareholder is entitled to vote on the merger, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series that remain outstanding after consummation of the merger.~~

(2) The corporation is a subsidiary that is merged with its parent under and the merger is governed by section 490.1104 490.1105.

b. Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan exchange, except that appraisal rights shall not be available to any shareholder of the corporation with respect to any class or series of shares of the corporation that is not exchanged.

c. Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one year after the date of sale disposition of assets pursuant to section 490.1202 if the shareholder is entitled to vote on the disposition.

d. An amendment of the articles of incorporation with respect to a class or series of shares that materially and adversely affects rights in respect of a dissenter's shares because it does any or all of the following:

(1) Alters or abolishes a preferential right of the shares.

(2) Creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares.

(3) Alters or abolishes a preemptive right of the holder of the shares to acquire shares or other securities.

(4) Excludes or limits the right of the shares to vote on any matter, or to cumulate votes, other than a limitation by dilution through issuance of shares or other securities with similar voting rights.

(5) Reduces reduces the number of shares of a class or series owned by the shareholder to a fraction of a share if the corporation has the obligation or right to repurchase the fractional share so created is to be acquired for cash under section 490.604.

(6) Extends, for the first time after being governed by this chapter, the period of duration of a corporation organized under chapter 491 or former chapter 496A and existing for a period of years on the day preceding the date the corporation is first governed by this chapter.

e. Any corporate action taken pursuant to a shareholder vote other amendment to the articles of incorporation, merger, share exchange, or disposition of assets to the extent provided by the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

2. Notwithstanding subsection 1, the availability of the appraisal rights under subsection 1, paragraphs "a" through "d", shall be limited in accordance with the following provisions:

a. Appraisal rights shall not be available for the holders of shares of any class or series of shares:

(1) Listed on the New York stock exchange or the American stock exchange or designated as a national market system security on an interdealer quotation system by the national association of securities dealers, inc.

(2) Not so listed or designated, but has at least two thousand shareholders and the outstanding shares of such class or series has a market value of at least twenty million dollars, exclusive of the value of such shares held by its subsidiaries, senior executives, directors, and beneficial shareholders owning more than ten percent of such shares.

b. The applicability of paragraph "a" shall be determined according to the following:

(1) The record date fixed to determine the shareholders entitled to receive notice of, and to vote at, the meeting of shareholders to act upon the corporate action requiring appraisal rights.

(2) The day before the effective date of such corporate action if there is no meeting of shareholders.

c. Paragraph "a" shall not be applicable and appraisal rights shall be available pursuant to subsection 1 for the holders of any class or series of shares who are required by the terms of the corporate action requiring appraisal rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in paragraph "a", at the time the corporate action becomes effective.

d. Paragraph "a" shall not be applicable and appraisal rights shall be available pursuant to subsection 1 for the holders of any class or series of shares where any of the following applies:

(1) Any of the shares or assets of the corporation are being acquired or converted, whether by merger, share exchange, or otherwise, pursuant to the corporate action by a person, or by an affiliate of a person, who fulfills either of the following:

(a) Is, or at any time in the one-year period immediately preceding approval by the board of directors of the corporate action requiring appraisal rights was, the beneficial owner of twenty percent or more of the voting power of the corporation, excluding any shares acquired pursuant to an offer for all shares having voting power if such offer was made within one year prior to the corporate action requiring appraisal rights for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action.

(b) Directly or indirectly has, or at any time in the one-year period immediately preceding approval by the board of directors of the corporation of the corporate action requiring appraisal rights had, the power, contractually or otherwise, to cause the appointment or election of twenty-five percent or more of the directors to the board of directors of the corporation.

(2) Any of the shares or assets of the corporation are being acquired or converted, whether by merger, share exchange, or otherwise, pursuant to such corporate action by a person, or by an affiliate of a person, who is, or at any time in the one-year period immediately preceding approval by the board of directors of the corporate action requiring appraisal rights was, a senior executive or director of the corporation or a senior executive of any affiliate thereof, and that senior executive or director will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders as such, other than any of the following:

(a) Employment, consulting, retirement, or similar benefits established separately and not as part of or in contemplation of the corporate action.

(b) Employment, consulting, retirement, or similar benefits established in contemplation of, or as part of, the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in section 490.832.

(c) In the case of a director of the corporation who will, in the corporate action, become a director of the acquiring entity in the corporate action or one of its affiliates, rights and benefits as a director that are provided on the same basis as those afforded by the acquiring entity generally to other directors of such entity or such affiliate.

e. For the purposes of paragraph "d" only, the term "beneficial owner" means any person who, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares, provided that a member of a national securities exchange shall not be deemed to be a beneficial owner of securities held directly or indirectly by such member on behalf of another person solely because the member is the record holder of such securities if the member is precluded by the rules of such exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When two or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed thereby shall be deemed to have acquired beneficial ownership, as of the date of such agreement, of all voting shares of the corporation beneficially owned by any member of the group.

3. Notwithstanding any other provision of section 490.1302, the articles of incorporation as originally filed or any amendment thereto may limit or eliminate appraisal rights for any class or series of preferred shares, but any such limitation or elimination contained in an amendment to the articles of incorporation that limits or eliminates appraisal rights for any of such shares that are outstanding immediately prior to the effective date of such amendment or that the corporation is or may be required to issue or sell thereafter pursuant to any conversion, exchange, or other right existing immediately before the effective date of such amendment, shall not apply to any corporate action that becomes effective within one year of that date if such action would otherwise afford appraisal rights.

2. 4. A shareholder entitled to dissent and obtain payment for the shareholder's shares

~~appraisal rights~~ under this chapter is not entitled to challenge ~~the a completed~~ corporate action creating the shareholder's entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation. ~~for which appraisal rights are available unless such corporate action meets one of the following standards:~~

- ~~a. It was not effectuated in accordance with the applicable provisions of division X, XI, or XII or the corporation's articles of incorporation, bylaws, or board of directors' resolution authorizing the corporate action.~~
- ~~b. It was procured as a result of fraud or material misrepresentation.~~

Sec. 80. Section 490.1303, Code 2001, is amended to read as follows:

490.1303 ~~DISSENT~~ ASSERTION OF RIGHTS BY NOMINEES AND BENEFICIAL OWNERS.

1. A record shareholder may assert ~~dissenters'~~ appraisal rights as to fewer than all the shares registered in ~~that the record~~ shareholder's name but owned by a beneficial shareholder only if the ~~record~~ shareholder ~~dissents~~ objects with respect to all shares ~~beneficially of the class or series~~ owned by ~~any one person~~ the beneficial shareholder and notifies the corporation in writing of the name and address of each ~~person~~ beneficial shareholder on whose behalf the shareholder asserts ~~dissenters'~~ appraisal rights are being asserted. The rights of a partial ~~dissenter record~~ shareholder who asserts appraisal rights for only part of the shares held of record in the record shareholder's name under this subsection are shall be determined as if the shares as to which the record shareholder dissents objects and the record shareholder's other shares were registered in the names of different record shareholders.

2. A beneficial shareholder may assert ~~dissenters'~~ appraisal rights as to shares of any class or series held on the shareholder's behalf of the shareholder only if the shareholder does both of the following:

- a. Submits to the corporation the record shareholder's written consent to the ~~dissent not later than the time the beneficial shareholder asserts dissenters' rights~~ assertion of such rights no later than the date referred to in section 490.1322, subsection 2, paragraph "b", subparagraph (2).
- b. Does so with respect to all shares of ~~which the shareholder is~~ the class of⁵ series that are beneficially owned by the beneficial shareholder or over which that beneficial shareholder has power to direct the vote.

Sec. 81. Section 490.1320, Code 2001, is amended to read as follows:

490.1320 ~~NOTICE OF DISSENTERS'~~ APPRAISAL RIGHTS.

1. If proposed corporate action ~~creating dissenters' rights under described in section 490.1302, subsection 1,~~ is to be submitted to a vote at a shareholders' meeting, the meeting notice must state that the corporation has concluded that the shareholders are, are not, or may be entitled to assert dissenters' appraisal rights under this part and be accompanied by. If the corporation concludes that appraisal rights are or may be available, a copy of this part must accompany the meeting notice sent to those record shareholders entitled to exercise appraisal rights.

2. If ~~corporate action creating dissenters' rights under In a merger pursuant to section 490.1302 is taken without a vote of shareholders 490.1105, the parent corporation shall~~ must notify in writing all ~~record~~ shareholders of the subsidiary who are entitled to assert dissenters' appraisal rights that the corporate action was taken and send them the dissenters' notice described became effective. Such notice must be sent within ten days after the corporate action became effective and include the materials described in section 490.1322.

Sec. 82. Section 490.1321, Code 2001, is amended to read as follows:

490.1321 ~~NOTICE OF INTENT TO DEMAND PAYMENT.~~

1. If proposed corporate action ~~creating dissenters' requiring appraisal~~ rights under section 490.1302 is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert ~~dissenters'~~ appraisal rights with respect to any class or series of shares must do all of the following:

⁵ See chapter 1175, §91 herein

a. Deliver to the corporation before the vote is taken written notice of the shareholder's intent to demand payment for the shareholder's shares if the proposed action is effectuated.

b. ~~Not vote the dissenting shareholder's shares, or cause or permit to be voted, any shares of such class or series in favor of the proposed action.~~

2. A shareholder who does not satisfy the requirements of subsection 1, is not entitled to payment for the shareholder's shares under this part.

Sec. 83. Section 490.1322, Code 2001, is amended to read as follows:

490.1322 ~~DISSENTERS' APPRAISAL NOTICE AND FORM.~~

1. ~~If proposed corporate action creating dissenters' requiring appraisal rights under section 490.1302 is authorized at a shareholders' meeting, subsection 1, becomes effective, the corporation shall must deliver a written dissenters' appraisal notice and form required by subsection 2, paragraph "a", to all shareholders who satisfied the requirements of section 490.1321. In the case of a merger under section 490.1105, the parent must deliver a written appraisal notice and form to all record shareholders who may be entitled to assert appraisal rights.~~

2. ~~The dissenters' appraisal notice must be sent no earlier than the date the corporate action became effective and no later than ten days after the proposed corporate action is authorized at a shareholders' meeting, or, if the corporate action is taken without a vote of the shareholders, no later than ten days after the corporate action is taken, such date and must do all of the following:~~

a. ~~State where the payment demand must be sent and where and when Be accompanied by a form that specifies the date of the first announcement to shareholders of the principal terms of the proposed corporate action and requires the shareholder asserting appraisal rights to certify whether or not beneficial ownership of those shares for which appraisal rights are asserted was acquired before that date, and that the shareholder did not vote for the transaction.~~

b. ~~State all of the following:~~

(1) ~~Where the form must be sent and where certificates for certificated shares must be deposited and the date by which those certificates must be deposited, which date shall not be earlier than the date for receiving the required form under subparagraph (2).~~

b. ~~Inform holders of uncertificated shares to what extent transfer of the shares will be restricted after the payment demand is received.~~

c. ~~Supply a form for demanding payment that includes the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action and requires that the person asserting dissenters' rights certify whether or not the person acquired beneficial ownership of the shares before that date.~~

d. (2) ~~Set a A date by which the corporation must receive the payment demand form, which date shall not be fewer than thirty forty nor more than sixty days after the date the dissenters' notice is delivered appraisal notice and form are sent under subsection 1, and state that the shareholder shall have waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by such specified date.~~

(3) ~~The corporation's estimate of the fair value of the shares.~~

(4) ~~That, if requested in writing, the corporation will provide, to the shareholder so requesting, within ten days after the date specified in subparagraph (2) the number of shareholders who return the forms by the specified date and the total number of shares owned by them.~~

(5) ~~The date by which the notice to withdraw under section 490.1323 must be received, which date must be within twenty days after the date specified in subparagraph (2).~~

e. ~~c. Be accompanied by a copy of this division.~~

Sec. 84. Section 490.1323, Code 2001, is amended to read as follows:

490.1323 ~~DUTY TO DEMAND PAYMENT PERFECTION OF RIGHTS — RIGHT TO WITHDRAW.~~

1. ~~A shareholder sent a dissenters' who receives notice described in pursuant to section 490.1322 and who wishes to exercise appraisal rights must demand payment, certify on the form sent by the corporation whether the shareholder beneficial owner of such shares~~

acquired beneficial ownership of the shares before the date required to be set forth in the dissenters' notice pursuant to section 490.1322, subsection 2, paragraph "c", "a". If a shareholder fails to make this certification, the corporation may elect to treat the shareholder's shares as after-acquired shares under section 490.1325. In addition, a shareholder who wishes to exercise appraisal rights must execute and return the form and, in a case of certificated shares, deposit the shareholder's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to section 490.1322, subsection 2, paragraph "b", subparagraph (2). Once a shareholder deposits that shareholder's certificates or, in the case of uncertificated shares, returns the executed forms, that shareholder loses all rights as a shareholder, unless the shareholder withdraws pursuant to subsection 2.

2. The shareholder who demands payment and deposits the shareholder's shares under subsection 1 retains all other rights of a shareholder until these rights are canceled or modified by the taking of the proposed corporate action. A shareholder who has complied with subsection 1 may nevertheless decline to exercise appraisal rights and withdraw from the appraisal process by so notifying the corporation in writing by the date set forth in the appraisal notice pursuant to section 490.1322, subsection 2, paragraph "b", subparagraph (5). A shareholder who fails to so withdraw from the appraisal process shall not thereafter withdraw without the corporation's written consent.

3. A shareholder who does not demand payment or execute and return the form and, in the case of certificated shares, deposit the shareholder's share certificates where required, each by the date set forth in the dissenters' notice described in section 490.1322, subsection 2, is shall not be entitled to payment for the shareholder's shares under this division.

Sec. 85. Section 490.1324, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1324 PAYMENT.

1. Except as provided in section 490.1325, within thirty days after the form required by section 490.1322, subsection 2, paragraph "b", subparagraph (2), is due, the corporation shall pay in cash to those shareholders who complied with section 490.1323, subsection 1, the amount the corporation estimates to be the fair value of their shares, plus interest.

2. The payment to each shareholder pursuant to subsection 1 must be accompanied by all of the following:

a. Financial statements of the corporation that issued the shares to be appraised, consisting of a balance sheet as of the end of a fiscal year ending not more than sixteen months before the date of payment, an income statement for that year, a statement of changes in shareholders' equity for that year, and the latest available interim financial statements, if any.

b. A statement of the corporation's estimate of the fair value of the shares, which estimate must equal or exceed the corporation's estimate given pursuant to section 490.1322, subsection 2, paragraph "b", subparagraph (3).

c. A statement that shareholders described in subsection 1 have the right to demand further payment under section 490.1326 and that if any such shareholder does not do so within the time period specified therein, such shareholder shall be deemed to have accepted such payment in full satisfaction of the corporation's obligations under this chapter.

Sec. 86. Section 490.1325, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1325 AFTER-ACQUIRED SHARES.

1. A corporation may elect to withhold payment required by section 490.1324 from any shareholder who did not certify that beneficial ownership of all of the shareholder's shares for which appraisal rights are asserted was acquired before the date set forth in the appraisal notice sent pursuant to section 490.1322, subsection 2, paragraph "a".

2. If the corporation elects to withhold payment under subsection 1, it must within thirty days after the form required by section 490.1322, subsection 2, paragraph "b", subparagraph (2), is due, notify all shareholders who are described in subsection 1 regarding all of the following:

- a. Of the information required by section 490.1324, subsection 2, paragraph "a".
 - b. Of the corporation's estimate of fair value pursuant to section 490.1324, subsection 2, paragraph "b".
 - c. That they may accept the corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under section 490.1326.
 - d. That those shareholders who wish to accept such offer must notify the corporation of their acceptance of the corporation's offer within thirty days after receiving the offer.
 - e. That those shareholders who do not satisfy the requirements for demanding appraisal under section 490.1326 shall be deemed to have accepted the corporation's offer.
3. Within ten days after receiving the shareholder's acceptance pursuant to subsection 2, the corporation must pay in cash the amount it offered under subsection 2, paragraph "b", to each shareholder who agreed to accept the corporation's offer in full satisfaction of the shareholder's demand.
 4. Within forty days after sending the notice described in subsection 2, the corporation must pay in cash the amount it offered to pay under subsection 2, paragraph "b", to each shareholder described in subsection 2, paragraph "e".

Sec. 87. Section 490.1326, Code 2001, is amended by striking the section and inserting in lieu thereof the following:

490.1326 PROCEDURE IF SHAREHOLDER DISSATISFIED WITH PAYMENT OR OFFER.

1. A shareholder paid pursuant to section 490.1324 who is dissatisfied with the amount of the payment must notify the corporation in writing of that shareholder's estimate of the fair value of the shares and demand payment of that estimate plus interest, less any payment under section 490.1324. A shareholder offered payment under section 490.1325 who is dissatisfied with that offer must reject the offer and demand payment of the shareholder's stated estimate of the fair value of the shares plus interest.
2. A shareholder who fails to notify the corporation in writing of that shareholder's demand to be paid the shareholder's stated estimate of the fair value plus interest under subsection 1 within thirty days after receiving the corporation's payment or offer of payment under section 490.1324 or 490.1325, respectively, waives the right to demand payment under this section and shall be entitled only to the payment made or offered pursuant to those respective sections.

Sec. 88. Section 490.1330, Code 2001, is amended to read as follows:

490.1330 COURT ACTION.

1. If a ~~demand~~ shareholder makes demands for payment under section ~~490.1328~~ 490.1326 ~~that~~ remains unsettled, the corporation shall commence a proceeding within sixty days after receiving the payment demand and petition the court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the sixty-day period, it shall pay in cash to each dissenter whose demand remains unsettled the amount demanded ~~shareholder the amount the shareholder demanded pursuant to section 490.1326 plus interest.~~
2. The corporation shall commence the proceeding in the district court of the county where ~~a~~ the corporation's principal office or, if none ~~in this state~~, its registered office, in this state is located. If the corporation is a foreign corporation without a registered office in this state, it shall commence the proceeding in the county in this state where the principal office or registered office of the domestic corporation merged with ~~or whose shares were acquired by the~~ foreign corporation was located at the time of the transaction.
3. The corporation shall make all ~~dissenters~~ shareholders, whether or not residents of this state, whose demands remain unsettled, parties to the proceeding as in an action against their shares and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.
4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have

the powers described in the order appointing them, or in any amendment to it. The ~~dissenters~~ shareholders demanding appraisal rights are entitled to the same discovery rights as parties in other civil proceedings. There shall be no right to a jury trial.

5. Each ~~dissenter~~ shareholder made a party to the proceeding is entitled to judgment for either of the following:

a. The amount, if any, by which the court finds the fair value of the ~~dissenter's~~ shareholder's shares, plus interest, exceeds the amount paid by the corporation to the shareholder for such shares.

b. The fair value, plus accrued interest, of the ~~dissenter's after-acquired~~ shareholder's shares for which the corporation elected to withhold payment under section 490.1327 490.1325.

6. Notwithstanding the provisions of this division, if the corporation is a bank holding company as defined in section 524.1801, fair value, at the election of the bank holding company, may be determined as provided in section 524.1406, subsection 3, prior to giving notice under section 490.1320 or 490.1322. The fair value as determined shall be included in any notice under section 490.1320 or 490.1322, and section 490.1328 490.1326 shall not apply.

Sec. 89. Section 490.1331, Code 2001, is amended to read as follows:

490.1331 COURT COSTS AND COUNSEL FEES.

1. The court in an appraisal proceeding commenced under section 490.1330 shall determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the costs against the corporation, except that the court may assess costs against all or some of the ~~dissenters~~ shareholders demanding appraisal, in amounts the court finds equitable, to the extent the court finds ~~the dissenters~~ such shareholders acted arbitrarily, vexatiously, or not in good faith ~~in demanding payment under section 490.1328 with respect to the rights provided by this division.~~

2. The court in an appraisal proceeding may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable, for either of the following:

a. Against the corporation and in favor of any or all ~~dissenters~~ shareholders demanding appraisal if the court finds the corporation did not substantially comply with the requirements of ~~sections section~~ section 490.1320 through 490.1328, 490.1322, 490.1324, or 490.1325.

b. Against either the corporation or a ~~dissenter~~ shareholder demanding appraisal, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this chapter.

3. If the court in an appraisal proceeding finds that the services of counsel for any ~~dissenter~~ shareholder were of substantial benefit to other ~~dissenters~~ shareholders similarly situated, and that the fees for those services should not be assessed against the corporation, the court may award to ~~these~~ such counsel reasonable fees to be paid out of the amounts awarded the ~~dissenters~~ shareholders who were benefited.

4. To the extent the corporation fails to make a required payment pursuant to section 490.1324, 490.1325, or 490.1326, the shareholder may sue directly for the amount owed and, to the extent successful, shall be entitled to recover from the corporation all costs and expenses of the suit, including counsel fees.

Sec. 90. Section 490.1402, subsections 4 and 5, Code 2001, are amended to read as follows:

4. The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting ~~in accordance with section 490.705.~~ The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation.

5. Unless the articles of incorporation, bylaws, or the board of directors acting pursuant to subsection 3 requires a greater vote, a greater number of shares to be present, or a vote by voting groups, adoption of the proposal to dissolve ~~to be adopted must be approved by a majority~~

~~of all shall require the approval of the shareholders at a meeting at which the quorum consisting of at least a majority of the votes entitled to be cast on that proposal exists.~~

Sec. 91. Section 490.1403, Code 2001, is amended to read as follows:

490.1403 ARTICLES OF DISSOLUTION.

1. At any time after dissolution is authorized, the corporation may dissolve by delivering to the secretary of state for filing articles of dissolution setting forth all of the following:

a. The name of the corporation.

b. The date dissolution was authorized.

c. If dissolution was approved by the shareholders, both of the following:

~~(1) The number of votes entitled to be cast on a statement that the proposal to dissolve was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation.~~

~~(2) Either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval.~~

~~d. If voting by voting groups was required, the information required by paragraph "c" must be separately provided for each voting group entitled to vote separately on the plan to dissolve.~~

2. A corporation is dissolved upon the effective date of its articles of dissolution.

3. For purposes of this division, "dissolved corporation" means a corporation whose articles of dissolution have become effective and includes a successor entity to which the remaining assets of the corporation are transferred subject to its liabilities for purposes of liquidation.

Sec. 92. Section 490.1404, subsection 3, paragraph f, Code 2001, is amended to read as follows:

f. If shareholder action was required to revoke the dissolution, the information required by section 490.1403, subsection 1, paragraph "c" or "d".

Sec. 93. Section 490.1406, subsections 1 and 2, Code 2001, are amended to read as follows:

1. A dissolved corporation may dispose of the known claims against it by following the procedure described in this section notifying its known claimants in writing of the dissolution at any time after its effective date.

2. The dissolved corporation shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice must do all of the following:

a. Describe information that must be included in a claim.

b. Provide a mailing address where a claim may be sent.

c. State the deadline, which may not be fewer than one hundred twenty days from the effective date of the written notice, by which the dissolved corporation must receive the claim.

d. State that the claim will be barred if not received by the deadline.

Sec. 94. Section 490.1407, Code 2001, is amended to read as follows:

490.1407 UNKNOWN OTHER CLAIMS AGAINST DISSOLVED CORPORATION.

1. A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice.

2. The notice must meet all of the following requirements:

a. Be published one time in a newspaper of general circulation in the county where the dissolved corporation's principal office or, if none in this state, its registered office is or was last located.

b. Describe the information that must be included in a claim and provide a mailing address where the claim may be sent.

c. State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the claim is commenced within five ~~three~~ years after the publication of the notice.

3. If the dissolved corporation publishes a newspaper notice in accordance with subsection 2, the claim of each of the following claimants is barred unless the claimant commences a

proceeding to enforce the claim against the dissolved corporation within ~~five~~ three years after the publication date of the newspaper notice:

- a. A claimant who ~~did not receive~~ was not given written notice under section 490.1406.
- b. A claimant whose claim was timely sent to the dissolved corporation but not acted on.
- c. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.
4. A claim that is not barred by section 490.1406, subsection 2, or subsection 3 of this section, may be enforced ~~under this section~~ in either of the following ways:
 - a. Against the dissolved corporation, to the extent of its undistributed assets.
 - b. If Except as provided in section 490.1408, subsection 4, if the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder's pro rata share of the claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section shall not exceed the total amount of assets distributed to the shareholder in liquidation.

Sec. 95. NEW SECTION. 490.1408 COURT PROCEEDINGS.

1. A dissolved corporation that has published a notice under section 490.1407 may file an application with the district court of the county where the dissolved corporation's principal office or, if none in this state, its registered office is located for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved corporation or that are based on an event occurring after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are reasonably estimated to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under section 490.1407, subsection 3.

2. Within ten days after the filing of the application, notice of the proceeding shall be given by the dissolved corporation to each claimant holding a contingent claim whose contingent claim is shown on the records of the dissolved corporation.

3. The court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, shall be paid by the dissolved corporation.

4. Provision by the dissolved corporation for security in the amount and the form ordered by the court under subsection 1, shall satisfy the dissolved corporation's obligations with respect to claims that are contingent, have not been made known to the dissolved corporation or are based on an event occurring after the effective date of dissolution, and such claims shall not be enforced against a shareholder who received assets in liquidation.

Sec. 96. NEW SECTION. 490.1409 DIRECTOR DUTIES.

1. Directors shall cause the dissolved corporation to discharge or make reasonable provision for the payment of claims and make distributions of assets to shareholders after payment or provision for claims.

2. Directors of a dissolved corporation which has disposed of claims under section 490.1406, 490.1407, or 490.1408 shall not be liable for breach of subsection 1, with respect to claims against the dissolved corporation that are barred or satisfied under section 490.1406, 490.1407, or 490.1408.

Sec. 97. Section 490.1431, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 4. Within ten days of the commencement of a proceeding under section 490.1430, subsection 2, to dissolve a corporation that has no shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national securities exchange, the corporation must send to all shareholders, other than the petitioner, a notice stating that the shareholders are entitled to avoid the dissolution of the corporation by electing to purchase the petitioner's shares under section 490.1434, and a copy of section 490.1434.

Sec. 98. NEW SECTION. 490.1434 ELECTION TO PURCHASE IN LIEU OF DISSOLUTION.

1. In a proceeding under section 490.1430, subsection 2, to dissolve a corporation that has no shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association, the corporation may elect or, if it fails to elect, one or more shareholders may elect to purchase all shares owned by the petitioning shareholder at the fair value of the shares. An election pursuant to this section shall be irrevocable unless the court determines that it is equitable to set aside or modify the election.

2. An election to purchase pursuant to this section may be filed with the court at any time within ninety days after the filing of the petition under section 490.1430, subsection 2, or at such later time as the court in its discretion may allow. If the election to purchase is filed by one or more shareholders, the corporation shall, within ten days thereafter, give written notice to all shareholders, other than the petitioner. The notice must state the name and number of shares owned by the petitioner and the name and number of shares owned by each electing shareholder and must advise the recipients of their right to join the election to purchase shares in accordance with this section. Shareholders who wish to participate must file notice of their intention to join in the purchase no later than thirty days after the effective date of the notice to them. All shareholders who have filed an election or notice of their intention to participate in the election to purchase thereby become parties to the proceeding and shall participate in the purchase in proportion to their ownership of shares as of the date the first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one or more shareholders, the proceeding under section 490.1430, subsection 2, shall not be discontinued or settled, nor shall the petitioning shareholder sell or otherwise dispose of the shareholder's shares, unless the court determines that it would be equitable to the corporation and the shareholders, other than the petitioner, to permit such discontinuance, settlement, sale, or other disposition.

3. If, within sixty days of the filing of the first election, the parties reach agreement as to the fair value and terms of purchase of the petitioner's shares, the court shall enter an order directing the purchase of the petitioner's shares upon the terms and conditions agreed to by the parties.

4. If the parties are unable to reach an agreement as provided for in subsection 3, the court, upon application of any party, shall stay the section 490.1430, subsection 2, proceedings and determine the fair value of the petitioner's shares as of the day before the date on which the petition under section 490.1430, subsection 2, was filed or as of such other date as the court deems appropriate under the circumstances.

5. Upon determining the fair value of the shares, the court shall enter an order directing the purchase upon such terms and conditions as the court deems appropriate, which may include payment of the purchase price in installments, where necessary in the interests of equity, provision for security to assure payment of the purchase price and any additional costs, fees, and expenses as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among them. In allocating petitioner's shares among holders of different classes of shares, the court shall attempt to preserve the existing distribution of voting rights among holders of different classes insofar as practicable and may direct that holders of a specific class or classes shall not participate in the purchase. Interest may be allowed at the rate and from the date determined by the court to be equitable, but if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, no interest shall be allowed. If the court finds that the petitioning shareholder has probable grounds for relief under section 490.1430, subsection 2, paragraph "b" or "d", it may award to the petitioning shareholder reasonable fees and expenses of counsel and of any experts employed by the shareholder.

6. Upon entry of an order under subsection 3 or 5, the court shall dismiss the petition to dissolve the corporation under section 490.1430, and the petitioning shareholder shall no longer have any rights or status as a shareholder of the corporation, except the right to receive the

amounts awarded to the shareholder by the order of the court which shall be enforceable in the same manner as any other judgment.

7. The purchase ordered pursuant to subsection 5 shall be made within ten days after the date the order becomes final unless before that time the corporation files with the court a notice of its intention to adopt articles of dissolution pursuant to sections 490.1402 and 490.1403, which articles must then be adopted and filed within fifty days thereafter. Upon filing of such articles of dissolution, the corporation shall be dissolved in accordance with the provisions of sections 490.1405 through 490.1407, and the order entered pursuant to subsection 5 shall no longer be of any force or effect, except that the court may award the petitioning shareholder reasonable fees and expenses in accordance with the provisions of the last sentence of subsection 5 and the petitioner may continue to pursue any claims previously asserted on behalf of the corporation.

8. Any payment by the corporation pursuant to an order under subsection 3 or 5, other than an award of fees and expenses pursuant to subsection 5, is subject to the provisions of section 490.640.

Sec. 99. Section 490.1603, Code 2001, is amended to read as follows:

490.1603 SCOPE OF INSPECTION RIGHT.

1. A shareholder's agent or attorney has the same inspection and copying rights as the shareholder ~~the agent or attorney represents~~ represented.

2. The right to copy records under section 490.1602 includes, if reasonable, the right to receive copies ~~made by photographic, xerographic, or other technological means~~ by xerographic or other means, including copies through an electronic transmission if available and so requested by the shareholder.

3. ~~The corporation may comply at its expense with a shareholder's demand to inspect the record of shareholders under section 490.1602, subsection 2, paragraph "c", by providing the shareholder with a list of shareholders that was compiled no earlier than the date of the shareholder's demand.~~

~~3.~~ 4. The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the shareholder. The charge shall not exceed the estimated cost of production, ~~or reproduction,~~ or transmission of the records.

~~4. The corporation may comply with a shareholder's demand to inspect the record of shareholders under section 490.1602, subsection 2, paragraph "c" by providing the shareholder with a list of its shareholders that was compiled no earlier than the date of the shareholder's demand.~~

Sec. 100. NEW SECTION. 490.1605 INSPECTION OF RECORDS BY DIRECTORS.

1. A director of a corporation is entitled to inspect and copy the books, records, and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation.

2. The district court of the county where the corporation's principal office, or if none in this state, its registered office, is located may order inspection and copying of the books, records, and documents at the corporation's expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

3. If an order is issued, the court may include provisions protecting the corporation from undue burden or expense, and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's costs, including reasonable counsel fees, incurred in connection with the application.

Sec. 101. NEW SECTION. 490.1606 EXCEPTION TO NOTICE REQUIREMENT.

1. Whenever notice is required to be given under any provision of this chapter to any shareholder, such notice shall not be required to be given if either of the following applies:

a. Notice of two consecutive annual meetings, and all notices of meetings during the period between such two consecutive annual meetings, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable.

b. All, but not less than two, payments of dividends on securities during a twelve-month period, or two consecutive payments of dividends on securities during a period of more than twelve months, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable.

2. If any such shareholder shall deliver to the corporation a written notice setting forth such shareholder's then-current address, the requirement that notice be given to such shareholder shall be reinstated.

Sec. 102. Section 491.3, subsection 8, Code 2001, is amended to read as follows:

8. A corporation organized under or subject to this chapter may make indemnification as provided in sections 490.850 through ~~490.858~~ 490.859.

Sec. 103. Section 491.16, Code 2001, is amended to read as follows:

491.16 INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS — INSURANCE.

Sections 490.850 through ~~490.858~~ 490.859 apply to corporations organized under or subject to this chapter.

Sec. 104. Section 497.34, Code 2001, is amended to read as follows:

497.34 INDEMNIFICATION.

A cooperative association operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in sections 490.850 through ~~490.858~~ 490.859, provided that where sections 490.850 through ~~490.858~~ 490.859 provide for action by shareholders the sections are applicable to action by voting members of the cooperative association, and where sections 490.850 through ~~490.858~~ 490.859 refer to the corporation organized under chapter 490 the sections are applicable to the cooperative association organized under this chapter, and where sections 490.850 through ~~490.858~~ 490.859 refer to the director the sections are applicable to a director, officer, employee, member, or volunteer of the cooperative association organized under this chapter.

Sec. 105. Section 498.36, Code 2001, is amended to read as follows:

498.36 INDEMNIFICATION.

A cooperative association operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in sections 490.850 through ~~490.858~~ 490.859, provided that where sections 490.850 through ~~490.858~~ 490.859 provide for action by shareholders the sections are applicable to action by voting members of the cooperative association, and where sections 490.850 through ~~490.858~~ 490.859 refer to the corporation organized under chapter 490 the sections are applicable to the cooperative association organized under this chapter, and where sections 490.850 through ~~490.858~~ 490.859 refer to the director the sections are applicable to a director, officer, employee, member, or volunteer of the cooperative association organized under this chapter.

Sec. 106. Section 499.59A, Code 2001, is amended to read as follows:

499.59A INDEMNIFICATION.

A cooperative association operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances

authorized in sections 490.850 through ~~490.858~~ 490.859, provided that where sections 490.850 through ~~490.858~~ 490.859 provide for action by shareholders the sections are applicable to action by voting members of the cooperative association, and where sections 490.850 through ~~490.858~~ 490.859 refer to the corporation organized under chapter 490 the sections are applicable to the cooperative association organized under this chapter, and where sections 490.850 through ~~490.858~~ 490.859 refer to the director the sections are applicable to a director, officer, employee, member, or volunteer of the cooperative association organized under this chapter.

Sec. 107. Section 499.69A, subsections 4 and 7, Code 2001, are amended to read as follows:

4. For a surviving cooperative association, a qualified merger becomes effective upon the filing of the articles of merger with the secretary of state and the issuance of a certificate of merger pursuant to section 499.68 or the date stated in the articles of merger, whichever is later. For a surviving qualified corporation, a qualified merger becomes effective upon the filing of the articles of merger with the secretary of state pursuant to section ~~490.1105~~ 490.1106 or the date stated in the articles, whichever is later.

7. A foreign cooperative association may participate in a qualified merger as provided in this section, if the foreign cooperative association complies with the requirements for a cooperative association under this section and the requirements for a foreign cooperative association under section 499.69. A foreign corporation may participate in a qualified merger as provided in this section if it complies with the requirements of a qualified corporation under this section and the requirements for a foreign corporation under section ~~490.1107~~ 490.1102.

Sec. 108. Section 508B.2, unnumbered paragraph 2, Code 2001, is amended to read as follows:

A plan of conversion may provide that a mutual company may convert into a domestic stock company, convert and merge, or convert and consolidate with a domestic stock company, as provided in chapter 490 or 491, whichever is applicable. However, the mutual company is not required to comply with sections 491.102 through 491.105 or sections ~~490.1101~~ 490.1102 and ~~490.1103~~ 490.1104 relating to approval of merger or consolidation plans by boards of directors and shareholders, if at the time of approval of the plan of conversion the board of directors approves the merger or consolidation and if at the time of approval of the plan by policyholders as provided in section 508B.6, the policyholders approve the merger or consolidation. This chapter supersedes any conflicting provisions of chapters 521 and 521A. A mutual company may convert, merge, or consolidate as part of a plan of conversion in which a majority or all of the common shares of the stock company are acquired by another corporation, which may be a corporation organized for that purpose, or in which the new stock company consolidates with a stock company to form another stock company.

Sec. 109. Section 504A.4, subsection 14, Code 2001, is amended to read as follows:

14. A corporation operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in sections 490.850 through ~~490.858~~ 490.859.

Sec. 110. Section 508B.13, Code 2001, is amended to read as follows:

508B.13 PROHIBITIONS ON CERTAIN OFFERS TO ACQUIRE SHARES.

Prior to and for a period of five years following the effective date of the conversion, and in the case of the plans of conversion specified in subsections 1 and 3 of section 508B.3, five years following the date of distribution of consideration to the policyholders in exchange for their membership interests, a person, other than the reorganized company, other than an employee benefit plan or employee benefit trust sponsored by the reorganized company, or as otherwise specifically provided for in the plan of conversion, shall not directly or indirectly acquire or offer to acquire the beneficial ownership of more than five percent of any class of voting security of the reorganized company, and a person, other than the reorganized company or other than an employee benefit plan or employee benefit trust sponsored by the reorganized com-

pany, who acquires five percent or more of any class of voting security of the reorganized company prior to the conversion or as specifically provided for in the plan of conversion, shall not directly or indirectly acquire or offer to acquire the beneficial ownership of additional voting securities of the reorganized company, unless the acquisition is approved by the commissioner as not being contrary to the interests of the policyholders of the reorganized company or its life insurance company subsidiary and by the board of directors of the reorganized company. The commissioner and the board of directors may consider the factors set forth in section ~~490.1108~~ 490.1108A. The provisions of section 521A.3, except subsection 4, paragraph "a", shall be applicable to a proposed acquisition subject to this section. An approved plan of conversion may include a stock option plan. As used in this section, "beneficial ownership" means, with respect to a security, the sole or shared power to vote or direct the voting of the security or the sole power to dispose or direct the disposition of the security.

Sec. 111. Section 508C.16, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Sections 490.850 through ~~490.858~~ 490.859 apply to the association.

Sec. 112. Section 524.801, subsection 7, Code 2001, is amended to read as follows:

7. To indemnify a director, officer, or employee, or a former director, officer, or employee of the state bank in the manner and in the instances authorized by sections 490.850 through ~~490.858~~ 490.859.

Sec. 113. Section 524.1213, subsection 2, Code Supplement 2001, is amended to read as follows:

2. A united community bank office formed under this section shall have a united community bank office board, at least one-half or more of the members of which shall be residents of the county in which the united community bank office is located. The liability of the united community bank office board shall be limited as provided in section 524.614. The bank establishing and operating the united community bank office may indemnify members of the united community bank office board as agents of the bank in the manner and in the instances authorized by sections 490.850 through ~~490.858~~ 490.859.

Sec. 114. Section 524.1309, subsection 8, Code 2001, is amended to read as follows:

8. A shareholder of a state bank who objects to adoption by the state bank of a plan to cease to carry on the business of banking and to continue as a corporation subject to chapter 490, is entitled to ~~the rights and remedies of a dissenting shareholder~~ appraisal rights provided for in chapter 490, division XIII.

Sec. 115. Section 524.1402, subsection 2, Code 2001, is amended to read as follows:

2. In the case of a state bank which is a party to the plan, if the proposed merger will result in a state bank subject to this chapter, adoption of the plan by such state bank requires the affirmative vote of at least a majority of the directors and approval by the shareholders, in the manner and according to the procedures prescribed in section ~~490.1103~~ 490.1104, at a meeting called in accordance with the terms of that section. In the case of a national bank, or if the proposed merger will result in a national bank, adoption of the plan by each party to the merger shall require the affirmative vote of at least such directors and shareholders whose affirmative vote on the plan is required under the laws of the United States. Subject to applicable requirements of the laws of the United States in a case in which a national bank is a party to a plan, any modification of a plan which has been adopted shall be made by any method provided in the plan, or in the absence of such provision, by the same vote as required for adoption.

Sec. 116. Section 524.1406, Code 2001, is amended to read as follows:

524.1406 ~~RIGHTS~~ APPRAISAL RIGHTS OF DISSENTING SHAREHOLDERS.

1. A shareholder of a state bank, which is a party to a proposed merger plan which will result

in a state bank subject to this chapter, who objects to the plan is entitled to ~~the rights and remedies of a dissenting shareholder~~ appraisal rights as provided in chapter 490, division XIII.

2. If a shareholder of a national bank which is a party to a proposed merger plan which will result in a state bank, or a shareholder of a state bank which is a party to a plan which will result in a national bank, objects to the plan and complies with the requirements of the applicable laws of the United States, the resulting state bank or national bank, as the case may be, is liable for the value of the shareholder's shares as determined in accordance with such laws of the United States.

3. a. Notwithstanding any contrary provision in chapter 490, division XIII, in determining the fair value of the shareholder's shares of a bank organized under this chapter or a bank holding company as defined in section 524.1801 in a transaction or event in which the shareholder is entitled to ~~the rights and remedies of a dissenting shareholder~~ appraisal rights, due consideration shall be given to valuation factors recognized for federal and estate tax purposes, including discounts for minority interests and discounts for lack of marketability. However, any payment made to ~~dissenting~~ shareholders under section ~~490.1325~~ 490.1324 shall be in an amount not less than the stockholders' equity in the bank disclosed in its last statement of condition filed under section 524.220 or the total equity capital of the bank holding company disclosed in the most recent report filed by the bank holding company with the board of governors of the federal reserve system, divided by the number of shares outstanding.

b. Prior to giving notice of a meeting at which a shareholder of a bank organized under this chapter or a bank holding company as defined in section 524.1801 would be entitled to ~~the rights and remedies of a dissenting shareholder~~ appraisal rights, such bank or bank holding company may seek a declaratory judgment to establish the fair value for purposes of section 490.1301, subsection 4, of shares held by such shareholders. Another cause of action or a counterclaim shall not be joined with such a declaratory action. A declaratory judgment shall be filed in the county where the principal place of business of the bank or bank holding company is located. The court shall appoint an attorney to represent minority shareholders. All shareholders of the bank or bank holding company shall be served with notice of the action and be advised of the name, address, and telephone number of the attorney appointed to represent minority shareholders. The attorney appointed to represent minority shareholders shall select an appraiser to give an opinion of the fair value of such shares. The bank or bank holding company may select an appraiser to give an opinion on the fair value of the shares of the bank or bank holding company. Any shareholder may participate individually and present evidence of the fair value of such shareholder's shares. All court costs, appraiser's fees, and the fees and expenses of the attorney appointed to represent the minority shareholders shall be assessed against the bank or the bank holding company. A judgment in the action shall not determine fair value for a share to be less than the stockholders' equity in the bank disclosed in its last statement of condition filed under section 524.220 or the total equity capital of the bank holding company disclosed in the most recent report filed by the bank holding company with the board of governors of the federal reserve system, divided by the number of shares outstanding. A final judgment in the action shall establish fair value for the purposes of chapter 490, division XIII and shall be disclosed to the shareholders in the notice to shareholders of the meeting to approve the transaction that gives rise to ~~dissenters'~~ appraisal rights. If the proposed transaction is approved by the shareholders, upon consummation of the proposed transaction the fair value so established shall be paid to each shareholder entitled to payment for the shareholder's shares upon receipt of such shareholder's share certificates.

Sec. 117. Section 524.1408, Code 2001, is amended to read as follows:

524.1408 MERGER OF CORPORATION SUBSTANTIALLY OWNED BY A STATE BANK.

A state bank owning at least ninety percent of the outstanding shares, of each class, of another corporation which it is authorized to own under this chapter, may merge the other corporation into itself without approval by a vote of the shareholders of either the state bank or the subsidiary corporation. The board of directors of the state bank shall approve a plan of merger, mail to shareholders of record of the subsidiary corporation, and prepare and execute articles

of merger in the manner provided for in section ~~490.1104~~ 490.1105. The articles of merger, together with the applicable filing and recording fees, shall be delivered to the superintendent who shall, if the superintendent approves of the proposed merger and if the superintendent finds the articles of merger satisfy the requirements of this section, deliver them to the secretary of state for filing and recording in the secretary of state's office, and they shall be filed in the office of the county recorder. The secretary of state upon filing the articles of merger shall issue a certificate of merger and send the certificate to the state bank and a copy of it to the superintendent.

Sec. 118. Section 524.1417, Code 2001, is amended to read as follows:

524.1417 RIGHTS APPRAISAL RIGHTS OF DISSENTING SHAREHOLDER OF CONVERTING STATE OR NATIONAL BANK OR FEDERAL SAVINGS ASSOCIATION.

1. A shareholder of a state bank ~~which that~~ converts into a national bank or federal savings association who objects to the plan of conversion is entitled to ~~the rights and remedies of a dissenting shareholder~~ appraisal rights as provided in chapter 490, division XIII.

2. If a shareholder of a national bank or federal savings association, ~~which that~~ converts into a state bank, objects to the plan of conversion and complies with the requirements of applicable laws of the United States, the resulting state bank is liable for the value of the shareholder's shares as determined in accordance with such laws of the United States.

Sec. 119. Section 533.4, subsection 27, Code 2001, is amended to read as follows:

27. To provide indemnity for the director, officer, or employee in the same fashion that a corporation organized under chapter 490 could under sections 490.850 through ~~490.858~~ 490.859; however, where those sections provide for action by shareholders the provision is applicable to action by members of the credit union and where the sections have reference to the corporation organized under chapter 490, the provision is applicable to the association organized under this chapter.

Sec. 120. Section 534.504, Code 2001, is amended to read as follows:

534.504 MEETINGS OF STOCKHOLDERS.

Sections 490.701 through ~~490.731~~ 490.732 apply to stock associations.

Sec. 121. Section 534.605, subsection 4, Code Supplement 2001, is amended to read as follows:

4. An association operating under this chapter may indemnify any present or former director, officer, or employee in the manner and in the instances authorized in sections 490.850 through ~~490.858~~ 490.859. If the association is a mutual association, the references in those sections to stockholder shall be deemed to be references to members.

Sec. 122. Section 534.607, Code 2001, is amended to read as follows:

534.607 INDEMNIFICATION.

Except as otherwise provided in section 534.602, sections 490.850 through ~~490.858~~ 490.859 apply to associations incorporated under this chapter.

Sec. 123. Sections 490.1022, 490.1327, 490.1328, and 490.1621, Code 2001, are repealed.

Sec. 124. CODE EDITOR DIRECTIVE. The following division and part titles shall be changed by the Code editor:

1. Division XII shall be retitled DISPOSITION OF ASSETS.
2. Division XIII shall be retitled APPRAISAL RIGHTS.
3. Division XIII, Part A, shall be retitled RIGHT TO APPRAISAL AND PAYMENT FOR SHARES.
4. Division XIII, Part B, shall be retitled PROCEDURE FOR EXERCISE OF APPRAISAL RIGHTS.

Sec. 125. EFFECTIVE DATE. This Act takes effect January 1, 2003.

Approved May 7, 2002

CHAPTER 1155
UNIVERSITY OF IOWA
HOSPITALS AND CLINICS FACILITIES —
ISSUANCE OF BONDS
S.F. 2168

AN ACT authorizing the state board of regents to issue bonds to construct, improve, remodel, repair, furnish, and equip inpatient and outpatient facilities and patient care facilities at the university of Iowa hospitals and clinics.

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

Section 1. LEGISLATIVE FINDINGS. The general assembly finds that the hospitals at the state university of Iowa are inadequate to meet present and future demands for statewide specialty care, modern and emerging technology, and teaching services.

Sec. 2. BONDS AUTHORIZED.

1. The state board of regents is authorized to issue bonds as provided in chapter 263A in an amount not exceeding one hundred million dollars, except as provided in subsection 2. The bonds may be issued at such times and in such amounts as determined by the state board of regents. Bond proceeds shall be used to construct, improve, remodel, repair, furnish, and equip inpatient and outpatient facilities and patient care facilities, including facilities for image-guided radiation therapy services and mechanical and other supporting facilities at the university of Iowa hospitals and clinics.

2. Notwithstanding the limitation established in subsection 1, the amount of bonds issued as authorized in subsection 1 may be exceeded by the amount the state board of regents determines to be necessary to capitalize bond reserves and issuance costs.

Approved May 8, 2002

CHAPTER 1156**VENTURE CAPITAL FUND INVESTMENT TAX CREDITS***H.F. 2586*

AN ACT allowing a tax credit for equity investments in venture capital funds and including an effective and retroactive applicability date provision.

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

Section 1. NEW SECTION. 15E.51 VENTURE CAPITAL FUND INVESTMENT TAX CREDITS.

1. For purposes of this section, “venture capital fund” means a private seed and venture capital partnership or entity fund that has been certified by the Iowa capital investment board created in 2002 Iowa Acts, House File 2078,⁶ pursuant to subsection 6.

2. A tax credit shall be allowed against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.24, for a portion of a taxpayer’s equity investment in a venture capital fund. An individual may claim a tax credit under this section of a partnership, limited liability company, S corporation, estate, or trust electing to have 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 from the partnership, limited liability company, S corporation, estate, or trust.

3. The amount of a tax credit shall not exceed six percent of the taxpayer’s equity investment in venture capital funds.

3A. A taxpayer shall not claim a tax credit under this section if the taxpayer is a venture capital investment fund allocation manager for the Iowa fund of funds created in 2002 Iowa Acts, House File 2078,⁷ or an investor that receives a tax credit for an investment in a community-based seed capital fund as defined in 2002 Iowa Acts, House File 2271.⁸

4. a. The Iowa capital investment board created in 2002 Iowa Acts, House File 2078,⁹ shall issue certificates which may be redeemed for tax credits. The Iowa capital investment board created in 2002 Iowa Acts, House File 2078,¹⁰ shall issue certificates so that not more than a total of five million dollars of tax credits may be claimed. The certificates shall not be transferable.

b. The Iowa capital investment board created in 2002 Iowa Acts, House File 2078,¹¹ shall, in cooperation with the department of revenue and finance, establish criteria and procedures for the allocation and issuance of tax credits by means of certificates issued by the Iowa capital investment board created in 2002 Iowa Acts, House File 2078.¹² The criteria shall include the contingencies that must be met for a certificate to be redeemable in order to receive a tax credit. The procedures established by the Iowa capital investment board created in 2002 Iowa Acts, House File 2078,¹³ in cooperation with the department of revenue and finance, shall relate to the procedures for the issuance of the certificates and for the redemption of a certificate and related tax credit.

5. A taxpayer shall not redeem a certificate and related tax credit prior to the third tax year following the tax year in which the investment is made. Any tax credit in excess of the taxpayer’s liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer claims the tax credit.

⁶ Chapter 1005 herein

⁷ Chapter 1005 herein

⁸ Chapter 1006 herein

⁹ Chapter 1005 herein

¹⁰ Chapter 1005 herein

¹¹ Chapter 1005 herein

¹² Chapter 1005 herein

¹³ Chapter 1005 herein

6. A venture capital fund shall submit an application for certification to the Iowa capital investment board created in 2002 Iowa Acts, House File 2078.¹⁴ The board shall approve the application and certify the venture capital fund if all of the following criteria are met:

- a. The venture capital fund is a private seed and venture capital partnership or entity fund.
- b. The venture capital fund maintains a physical presence within the state of Iowa.
- c. The venture capital fund makes a commitment to consider equity investments in businesses located within the state of Iowa.

Sec. 2. NEW SECTION. 422.11G VENTURE CAPITAL FUND INVESTMENT TAX CREDIT.

The tax imposed under this division, less the credits allowed under sections 422.12 and 422.12B, shall be reduced by a venture capital fund investment tax credit authorized pursuant to section 15E.51.

Sec. 3. Section 422.33, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 13. The taxes imposed under this division shall be reduced by a venture capital fund investment tax credit authorized pursuant to section 15E.51.

Sec. 4. Section 422.60, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The taxes imposed under this division shall be reduced by a venture capital fund investment tax credit authorized pursuant to section 15E.51.

Sec. 5. NEW SECTION. 432.12B VENTURE CAPITAL FUND INVESTMENT TAX CREDIT.

The tax imposed under this chapter shall be reduced by a venture capital fund investment tax credit authorized pursuant to section 15E.51.

Sec. 6. Section 533.24, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The moneys and credits tax imposed under this section shall be reduced by an investment tax credit authorized pursuant to section 15E.51.

Sec. 7. IMPLEMENTATION OF ACT — MONEYS AND CREDITS TAX. Section 25B.7 shall not apply to the tax credit authorized pursuant to section 15E.51 and allowed against the moneys and credits tax.

Sec. 8. EFFECTIVE AND RETROACTIVE APPLICABILITY DATE PROVISIONS. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2002, for tax years beginning on or after that date.

Approved May 8, 2002

¹⁴ Chapter 1005 herein

CHAPTER 1157**SEX OFFENDERS — RESIDENCY RESTRICTIONS —
CHILD CARE FACILITIES AND ELEMENTARY OR SECONDARY SCHOOLS***S.F. 2197*

AN ACT prohibiting a registered sex offender from residing near a school or child care facility, and providing a penalty.

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

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

NEW SUBSECTION. 1A. “Child care facility” means as defined in section 237A.1.

Sec. 2. Section 692A.5, subsection 1, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Inform the person, if the person’s residency is restricted under section 692A.2A, that the person shall not reside within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school, or a child care facility.

Sec. 3. NEW SECTION. 692A.2A RESIDENCY RESTRICTIONS — CHILD CARE FACILITIES AND SCHOOLS.

1. For purposes of this section, “person” means a person who has committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor.

2. A person shall not reside within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility.

3. A person who resides within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school, or a child care facility, commits an aggravated misdemeanor.

4. A person residing within two thousand feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility does not commit a violation of this section if any of the following apply:

a. The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.

b. The person is subject to an order of commitment under chapter 229A.

c. The person has established a residence prior to the effective date of this Act or a school or child care facility is newly located on or after the effective date of this Act.

d. The person is a minor or a ward under a guardianship.

Approved May 9, 2002

CHAPTER 1158**TAXATION OF INSURANCE PREMIUMS, ASSESSMENTS, AND FEES
AND HEALTH SERVICE CORPORATION SUBSCRIBER CONTRACT PAYMENTS***S.F. 2318*

AN ACT relating to the tax on premiums and subscriber contract payments received by insurance companies and health service corporations by phasing in a reduction in the tax and increasing the prepayment of the tax, providing for a study, and including an effective date.

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

Section 1. Section 135.120, Code 2001, is amended to read as follows:
135.120 TAXATION OF ORGANIZED DELIVERY SYSTEMS.

Payments received by an organized delivery system licensed by the director for health care services, insurance, indemnity, or other benefits to which an enrollee is entitled through an organized delivery system authorized under 1993 Iowa Acts, chapter 158, and payments by an organized delivery system licensed by the director to providers for health care services, to insurers, or corporations authorized under chapter 514 for insurance, indemnity, or other service benefits authorized under 1993 Iowa Acts, chapter 158, are not premiums received and taxable under the provisions of section 432.1 for the first five years of the existence of the organized delivery system, its successors or assigns, or the first five years after July 1, 1996, whichever is the later. After the first five years, the payments received shall be considered premiums received and shall be taxable under the provisions of section 432.1, subsection 1. However, payments made by the United States secretary of health and human services under contracts issued under section 1833 or 1876 of the federal Social Security Act, section 4015 of the federal Omnibus Budget Reconciliation Act of 1987, or chapter 249A for enrolled members shall not be considered premiums received and shall not be taxable under section 432.1.

Sec. 2. Section 432.1, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. ~~Two percent~~ The applicable percent, as provided in subsection 1A, of the gross amount of premiums received during the preceding calendar year by every life insurance company or association, not including fraternal beneficiary associations, or the gross payments or deposits collected from holders of fraternal beneficiary association certificates, on contracts of insurance covering risks resident in this state during the preceding year, including contracts for group insurance and annuities and without including or deducting any amounts received or paid for reinsurance.

Sec. 3. Section 432.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. The "applicable percent" for purposes of subsection 1 of this section and section 432.2 is the following:

- a. For calendar years beginning before the 2003 calendar year, two percent.
- b. For the 2003 calendar year, one and three-fourths percent.
- c. For the 2004 calendar year, one and one-half percent.
- d. For the 2005 calendar year, one and one-fourth percent.
- e. For the 2006 and subsequent calendar years, one percent.

Sec. 4. Section 432.1, subsection 2, Code 2001, is amended to read as follows:

2. ~~Two percent~~ The applicable percent, as provided in subsection 2A, of the gross amount of premiums, assessments, and fees received during the preceding calendar year by every company or association other than life on contracts of insurance other than life for business done in this state, including all insurance upon property situated in this state, after deducting the amounts returned upon canceled policies, certificates and rejected applications but not

including the gross premiums, assessments and fees in connection with ocean marine insurance authorized in section 515.48.

Sec. 5. Section 432.1, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 2A. The “applicable percent” for purposes of subsection 2 is the following:

- a. For calendar years beginning before the 2004 calendar year, two percent.
- b. For the 2004 calendar year, one and three-fourths percent.
- c. For the 2005 calendar year, one and one-half percent.
- d. For the 2006 calendar year, one and one-fourth percent.
- e. For the 2007 and subsequent calendar years, one percent.

Sec. 6. Section 432.1, subsection 4, Code 2001, is amended to read as follows:

4. a. Each insurance company and association transacting business in this state whose Iowa premium tax liability for the preceding calendar year was one thousand dollars or more shall remit on or before June 1, on a prepayment basis, an amount equal to one-half of the premium tax liability for the preceding calendar year.

b. In addition to the prepayment amount in paragraph “a”, each life insurance company or association which is subject to tax under subsection 1 of this section and each mutual health service corporation which is subject to tax under section 432.2 shall remit on or before June 30, on a prepayment basis, an additional amount equal to the following percent of the premium tax liability for the preceding calendar year as follows:

(1) For prepayment in the 2003 calendar year, four percent.

(2) For prepayment in the 2004 calendar year, twenty-one percent.

(3) For prepayment in the 2005 and subsequent calendar years, fifty percent.

c. In addition to the prepayment amount in paragraph “a”, each insurance company or association, other than a life insurance company or association, which is subject to tax under subsection 2 shall remit on or before June 30, on a prepayment basis, an additional amount equal to the following percent of the premium tax liability for the preceding calendar year as follows:

(1) For prepayment in the 2003 and 2004 calendar years, eleven percent.

(2) For prepayment in the 2005 calendar year, twenty-six percent.

(3) For prepayment in the 2006 and subsequent calendar years, fifty percent.

d. The sums prepaid by a company or association under this subsection shall be allowed as credits against its premium tax liability for the calendar year during which the payments are made. If a prepayment made under this subsection exceeds the annual premium tax liability, the excess shall be allowed as a credit against subsequent prepayment or tax liabilities. The commissioner may suspend or revoke the license of a company or association that fails to make a prepayment on or before the due date.

Sec. 7. Section 432.2, Code 2001, is amended to read as follows:

432.2 MUTUAL SERVICE CORPORATIONS.

Notwithstanding section 432.1, a hospital service corporation, medical service corporation, pharmaceutical service corporation, optometric service corporation and any other service corporation operating under chapter 514 shall pay as taxes to the director of revenue and finance an amount equal to ~~two percent~~ the applicable percent, as provided in section 432.1, subsection 1A, of the gross amount of payments received during the preceding calendar year for subscriber contracts covering residents in this state after deducting the amounts returned to subscribers upon canceled subscriber contracts and rejected applications. Section 432.1, subsections 3 and 4, apply to the tax imposed by this section.

Sec. 8. Section 514B.31, Code 2001, is amended to read as follows:

514B.31 TAXATION.

Payments received by a health maintenance organization for health care services, insurance, indemnity, or other benefits to which an enrollee is entitled through a health mainte-

nance organization authorized under this chapter and payments by a health maintenance organization to providers for health care services, to insurers, or corporations authorized under chapter 514 for insurance, indemnity, or other service benefits authorized under this chapter are not premiums received and taxable under the provisions of section 432.1 for the first five years of the existence of the health maintenance organization, its successors or assigns. After the first five years, the payments received shall be considered premiums received and shall be taxable under the provisions of section 432.1, subsection 1. However, payments made by the United States secretary of health and human services under contracts issued under section 1833 or 1876 of the federal Social Security Act, section 4015 of the federal Omnibus Budget Reconciliation Act of 1987, or chapter 249A for enrolled members shall not be considered premiums received and shall not be taxable under section 432.1.

Sec. 9. GAAP. The department of revenue and finance and the office of the auditor of state are directed to study the impact this Act may have on the balance of the general fund of the state according to generally accepted accounting principles, especially the impact on the 2005-2006 fiscal year. The report shall contain the data used and recommendations made. The report shall be submitted to the legislative council and its fiscal committee by August 15, 2002.

Sec. 10. EFFECTIVE DATE. Section 9 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 9, 2002

CHAPTER 1159

SCHOOL FINANCE — ALLOWABLE GROWTH

S.F. 2328

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 Supplement 2001, as amended by 2002 Iowa Acts, Senate File 2315,¹ section 1, is amended to read as follows:

1. STATE PERCENT OF GROWTH. ~~The state percent of growth for the budget year beginning July 1, 2001, is four percent.~~ The state percent of growth for the budget year beginning July 1, 2002, is one percent. The state percent of growth for the budget year beginning July 1, 2003, is two 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, 2003.

Approved May 9, 2002

¹ Chapter 1167 herein

CHAPTER 1160**DR. NORMAN E. BORLAUG WORLD FOOD PRIZE DAY***S.F. 2057*

AN ACT relating to the designation of a Dr. Norman E. Borlaug World Food Prize Day.

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

Section 1. NEW SECTION. 1C.12 DR. NORMAN E. BORLAUG WORLD FOOD PRIZE DAY.

The governor of this state is hereby authorized and requested to issue annually a proclamation designating the sixteenth day of October as Dr. Norman E. Borlaug World Food Prize Day and to encourage all governmental entities, civic organizations, schools, and institutions of higher education in the state to observe the day in a manner that emphasizes the meaning and importance of the work, accomplishments, and heroic contributions to humanity of nobel peace prize laureate Dr. Norman E. Borlaug and to give attention and support to the programs and activities of the world food prize which was inspired and created by Dr. Norman E. Borlaug to alleviate poverty, hunger, and malnutrition throughout the world.

Approved May 10, 2002

CHAPTER 1161**SALES AND USE TAXES — MISCELLANEOUS PROVISIONS***S.F. 2321*

AN ACT relating to sales and use taxes by requiring the department of revenue and finance to collect data on the extent and the effect on taxes of electronic commerce in the state, striking the repeal of the tax treatment of sales where the substance of the transaction is delivered by electronic waves, digitally, or by way of cable or fiber optics, and establishing a committee to enter into multistate discussions on the simplification of the sales and use taxes and including an effective date.

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

Section 1. NEW SECTION. 421.70 ELECTRONIC COMMERCE DATA COLLECTION.

1. **SHORT TITLE.** This section shall be known and may be cited as the “Electronic Commerce and New Economy Data Collection Act”.

2. **PURPOSE.** The purpose of this section is to require the department of revenue and finance to begin collecting valid Iowa-specific data concerning the extent of electronic commerce within Iowa, and to expand the number of factors used when projecting estimated net gains or losses in tax revenues from electronic commerce.

3. **DEFINITIONS.** As used in this section:

a. “Electronic commerce” means business-to-consumer sales conducted via the internet that is subject to taxation levied under chapter 422, division IV, or chapter 423. Electronic commerce includes, but is not limited to, the sale of tangible and intangible goods.

b. “Electronic commerce vendor” means a person engaged in business-to-consumer sales of goods or services.

c. "Person" means a natural person or via the internet any other entity subject to retail sales and use taxation under chapter 422, division IV, or chapter 423.

4. ANNUAL REPORT. The department shall collect primary and supplementary data to accurately measure the level of electronic commerce activity within the state. The primary data set shall include, but is not limited to, the number of electronic commerce vendors domiciled within the state, if obtainable; gross retail sales of electronic commerce vendors domiciled within the state; an estimate of the number of in-state electronic commerce transactions conducted by persons within the state boundaries based on accepted standards of scientific sampling; an estimate of the number of out-of-state electronic commerce transactions conducted by persons within the state boundaries based on accepted standards of scientific sampling; an estimate of the total value of electronic commerce transactions conducted by persons within state boundaries during a fiscal year; a reliable estimate of the use tax revenue that is uncollected due to out-of-state electronic commerce; and a reliable estimate of income, property, excise, and other revenues paid to the state and its political subdivisions by electronic commerce vendors. Collection of primary data shall be considered part of the department's normal duties and shall not require an additional budgetary appropriation. The department shall supplement primary data with information supplied by the United States department of commerce, the United States census bureau, the United States small business administration, any other federal agency collecting electronic commerce data, and if obtainable, affiliated state data centers. The department may use information gathered from private, academic, and nongovernmental entities provided that the source and methodology is clearly stated within the text of the report. The department shall not cite, as authoritative sources, studies conducted by private, academic, and nongovernmental entities that are speculative in nature or based on unscientific methods. In addition, the department shall include an analysis of the financial impact increased sales and use tax collection requirements would have on in-state companies engaged in electronic commerce. The data shall be compiled in the form of an annual report to be delivered to the general assembly no later than February 1 of each year.

5. REPEAL. This section is repealed March 1, 2005.

Sec. 2. Section 422.43, subsection 15, unnumbered paragraph 2, Code Supplement 2001, is amended by striking the unnumbered paragraph.

Sec. 3. Section 423.1, subsection 13, unnumbered paragraph 2, Code Supplement 2001, is amended by striking the unnumbered paragraph.

Sec. 4. SALES TAX SIMPLIFICATION — MULTISTATE DISCUSSIONS.

1. AGREEMENT. Delegates appointed pursuant to subsection 2 shall enter into multistate discussions on behalf of this state to consider whether this state should enter into an agreement with one or more other states to do all of the following:

a. Simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for sellers and for all types of commerce.

b. Establish standards for sales and use tax compliance software and service providers.

c. Establish performance standards for multistate sellers.

2. DELEGATES. For the purposes of this section, delegates shall be appointed as follows:

a. One delegate shall be a member of the house of representatives who is appointed by the speaker of the house of representatives or the delegate's designee who shall also be a member of the house of representatives.

b. One delegate shall be a member of the senate who is appointed by the majority leader of the senate or the delegate's designee who shall also be a member of the senate.

c. Two delegates shall be appointed by the governor, one of whom shall be the director of revenue and finance, or each delegate's designee.

3. RECOMMENDATIONS. After meeting with similar delegations from other states, the delegates shall make recommendations to the general assembly regarding the issues the delegates are required to consider under subsection 1 and any other issue the general assembly may require the delegates to consider.

4. LEGISLATION. If the delegates determine that this state should enter into an agreement with one or more other states, the delegates shall recommend the preparation of legislation to bring this state into substantial compliance with the agreement as a result of the multistate discussions required by this section.

5. DEFINITIONS. In this section, unless the context otherwise requires:

a. "Agreement" means an interstate agreement for simplification and uniformity of taxation among member states in order to reduce the burden of tax compliance for sellers and for all types of commerce.

b. "Seller" means a person that sells, leases, or rents tangible personal property or a service.

c. "State" means a state of the United States and the District of Columbia.

d. "Tax" or "taxes" means the state sales and use taxes imposed under chapter 422, division IV, and chapter 423, or a similar tax imposed by a political subdivision of this state.

6. REPEAL. This section is repealed March 1, 2005.

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

Approved May 10, 2002

CHAPTER 1162

STATE AGENCY REGULATORY FUNCTIONS — MISCELLANEOUS REORGANIZATIONS, TRANSFERS, AND REVISIONS

S.F. 2325

AN ACT relating to certain state agency regulatory functions by reorganizing the duties of the department of inspections and appeals, transferring the court appointed special advocate program to the department of inspections and appeals, renaming and revising the duties of the state citizen foster care review board, reorganizing the administrative structure of the department of natural resources, providing for legislative review of state agencies, and revising requirements for licensed birth centers.

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

DIVISION I

DEPARTMENT OF INSPECTIONS AND APPEALS DUTIES

Section 1. Section 10A.101, subsection 1, Code 2001, is amended to read as follows:

1. "Administrator" means ~~the chief administrative law judge, chief inspector, chief investigator, chief auditor, or the~~ a person administering coordinating the administration of a division of the department.

Sec. 2. Section 10A.104, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 11. Administer inspection and licensing of social and charitable gambling pursuant to chapter 99B.

Sec. 3. Section 10A.104, subsection 8, Code 2001, is amended to read as follows:

8. Establish by rule standards and procedures for certifying that targeted small businesses are eligible to participate in the procurement program established in sections 73.15 through

73.21. The procedure for determination of eligibility shall not include self-certification by a business. ~~Rules and guidelines adopted pursuant to this subsection are subject to review and approval by the director of the department of management.~~ The director shall maintain a current directory of targeted small businesses ~~which that have been certified pursuant to this subsection.~~

Sec. 4. Section 10A.106, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 5. Section 10A.106, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The allocation of departmental duties to the divisions of the department in sections ~~10A.302, 10A.402, 10A.502, 10A.702, and 10A.801~~ does not prohibit the director from reallocating departmental duties within the department. ~~The director shall not reallocate any of the duties of the division of administrative hearings, created by section 10A.801, to any other unit of the department.~~

Sec. 6. Section 10A.401, subsection 1, Code 2001, is amended to read as follows:

1. "Administrator" means the ~~chief investigator who shall coordinate~~ person coordinating the administration of this division.

Sec. 7. Section 10A.402, Code 2001, is amended to read as follows:

10A.402 RESPONSIBILITIES.

The administrator shall coordinate the division's conduct of various audits and investigations as ~~otherwise provided for~~ by law including but not limited to the following:

1. Investigations relative to the practice of regulated professions and occupations, except those within the jurisdiction of the board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing.

2. ~~Investigations relative to proposed sales within the state of subdivided land situated outside of the state.~~ Audits relative to the administration of hospitals and health care facilities.

3. ~~Investigations relative to applications for beer and liquor licenses.~~ Audits relative to administration and disbursement of funding under the state supplementary assistance program and the medical assistance program.

4. Investigations and collections relative to the liquidation of overpayment debts owed to the department of human services. Collection methods include but are not limited to small claims filings, debt setoff, distress warrants, and repayment agreements, and are subject to approval by the department of human services.

5. Investigations relative to the operations of the department of elder affairs.

6. Investigations relative to the administration of the state ~~supplemental~~ supplementary assistance program, the state medical assistance program, the food stamp program, the family investment program, and any other state or federal benefit assistance program.

7. Investigations relative to the internal affairs and operations of agencies and departments within the executive branch of state government, except for institutions governed by the state board of regents.

Sec. 8. Section 10A.501, subsection 1, Code 2001, is amended to read as follows:

1. "Administrator" means the ~~chief inspector, who shall coordinate~~ person coordinating the administration of this division.

Sec. 9. Section 10A.502, Code 2001, is amended to read as follows:

10A.502 RESPONSIBILITIES.

The administrator shall coordinate the division's conduct of various inspections as ~~otherwise provided for~~ by law including but not limited to the following:

1. ~~Inspections and licensing procedures related to social and charitable gambling pursuant to chapter 99B of hotels, home food establishments, and egg handlers.~~

2. Inspections of food establishments, including restaurants, ~~hotels, food and beverage vending machines, state educational, charitable, correctional, and penal institutions, and sanitation inspections~~ food processing plants, grocery stores, convenience stores, temporary food establishments, and mobile food units.

3. Inspections for sanitation in any locality of the state upon the written petition of five or more residents of a particular the locality.

Sec. 10. Section 10A.701, subsection 1, Code 2001, is amended to read as follows:

1. "Administrator" means the ~~chief administrator who shall coordinate~~ person coordinating the administration of this division.

Sec. 11. Section 10A.801, subsection 1, paragraph a, Code 2001, is amended to read as follows:

a. "Administrator" means the ~~chief administrative law judge who shall coordinate~~ person coordinating the administration of the division.

Sec. 12. Section 10A.801, subsection 2, Code 2001, is amended to read as follows:

2. The administrator shall coordinate the division's conduct of appeals and administrative hearings as ~~otherwise~~ provided by law.

Sec. 13. Section 10A.801, subsection 7, paragraph c, Code 2001, is amended to read as follows:

c. To establish standards and procedures for the evaluation, training, promotion, and discipline for the administrative law judges employed by the division. ~~These~~ The procedures shall include provisions for each agency for whom a particular administrative law judge presides to submit to the division on a periodic basis the agency's views with respect to the performance of that administrative law judge or the need for specified additional training for that administrative law judge. However, the evaluation, training, promotion, and discipline of all administrative law judges employed by the division shall remain solely within the authority of the ~~division~~ department.

Sec. 14. Sections 10A.301 and 10A.302, Code 2001, are repealed.

DIVISION II CHILD ADVOCACY BOARD

Sec. 15. Section 10A.104, subsection 2, Code 2001, is amended to read as follows:

2. Appoint the administrators of the divisions within the department and all other personnel deemed necessary for the administration of this chapter, except the state public defender, assistant state public defenders, administrator of the racing and gaming commission, members of the employment appeal board, and administrator of the ~~state citizen foster care review~~ child advocacy board created in section 237.16. All persons appointed and employed in the department are covered by the provisions of chapter 19A, but persons not appointed by the director are exempt from the merit system provisions of chapter 19A.

Sec. 16. Section 232.2, subsection 9, Code Supplement 2001, is amended to read as follows:

9. "Court appointed special advocate" means a person duly certified by the ~~judicial branch~~ child advocacy board created in section 237.16 for participation in the court appointed special advocate program and appointed by the court to represent the interests of a child in any judicial proceeding to which the child is a party or is called as a witness or relating to any dispositional order involving the child resulting from such proceeding.

Sec. 17. Section 232.89, subsection 5, Code 2001, is amended to read as follows:

5. The court may appoint a court appointed special advocate, ~~as defined in section 232.2, subsection 9,~~ to act as guardian ad litem. The court appointed special advocate shall receive

notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child. The court appointed special advocate shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. The court appointed special advocate shall submit a written report to the court and to each of the parties to the proceedings containing results of the court appointed special advocate's initial investigation of the child's case, including but not limited to recommendations regarding placement of the child and other recommendations based on the best interest of the child. The court appointed special advocate shall submit subsequent reports to the court and parties, as needed, detailing the continuing situation of the child's case as long as the child remains under the jurisdiction of the court. However In addition, the court appointed special advocate shall file other reports to the court as required by the court.

Sec. 18. Section 232.126, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The court may appoint a court appointed special advocate, ~~as defined in section 232.2, subsection 9,~~ to act as guardian ad litem. The court appointed special advocate shall receive notice of and may attend all depositions, hearings, and trial proceedings to support the child and advocate for the protection of the child. The court appointed special advocate shall not be allowed to separately introduce evidence or to directly examine or cross-examine witnesses. The court appointed special advocate shall submit reports to the court and the parties to the proceedings containing the information required in reports submitted by a court appointed special advocate under section 232.89, subsection 5. However In addition, the court appointed special advocate shall file other reports to the court as required by the court.

Sec. 19. Section 235A.15, subsection 2, paragraph e, subparagraph (7), Code Supplement 2001, is amended to read as follows:

(7) To the state child advocacy and local citizen foster care review boards created pursuant to sections 237.16 and 237.19.

Sec. 20. Section 237.15, Code 2001, is amended by adding the following new subsection: NEW SUBSECTION. 2A. "Court appointed special advocate" means the same as defined in section 232.2.

Sec. 21. Section 237.15, subsection 6, Code 2001, is amended to read as follows:

6. "State board" means the ~~state citizen foster care review~~ child advocacy board created pursuant to section 237.16.

Sec. 22. Section 237.16, subsection 1, Code 2001, is amended to read as follows:

1. The ~~state citizen foster care review~~ child advocacy board is created within the department of inspections and appeals. The state board consists of ~~seven~~ nine members appointed by the governor, subject to confirmation by the senate and directly responsible to the governor. One member shall be an active court appointed special advocate volunteer and one member shall be a judicial branch employee or judicial officer appointed from nominees submitted by the judicial branch. The appointment is for a term of four years ~~which that~~ begins and ends as provided in section 69.19. Vacancies on the state board shall be filled in the same manner as original appointments are made.

Sec. 23. Section 237.18, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Establish procedures and protocols for administering the court appointed special advocate program in accordance with subsection 7.

Sec. 24. Section 237.18, Code 2001, is amended by adding the following new subsections: NEW SUBSECTION. 7. Administer the court appointed special advocate program, including but not limited to performance of all of the following:

a. Establish standards for the program, including but not limited to standards for selection and screening of volunteers, preservice training, ongoing education, and assignment and supervision of volunteers. Identifying information concerning a court appointed special advocate, other than the advocate's name, shall not be considered to be a public record under chapter 22.

b. Implement the court appointed special advocate program in additional areas of the state.

c. Promote adherence to the national guidelines for state and local court appointed special advocate programs.

d. Issue an annual report of the court appointed special advocate program for submission to the general assembly, the governor, and the supreme court.

e. Employ appropriate court appointed special advocate program staff in accordance with available funding. The state board shall coordinate with the department of inspections and appeals the performance of the administrative functions of the state board.

NEW SUBSECTION. 8. Receive gifts, grants, or donations made for any of the purposes of the state board's programs and disburse and administer the funds received in accordance with the terms of the donor and under the direction of program staff. The funds received shall be used according to any restrictions attached to the funds and any unrestricted funds shall be retained and applied to the applicable program budget for the next succeeding fiscal year.

Sec. 25. CHILD ADVOCACY BOARD. The child advocacy board shall work with the court appointed special advocate program to develop a plan for merging that program with the citizen foster care review process. In addition, the board shall also review other programs or processes in state government that are intended to address the best interests of a child who is the subject of an order for out-of-home placement or other juvenile court oversight. The board shall develop a report with findings and recommendations as to how the programs and processes may be consolidated with the efforts of the board. The plan and report shall be submitted to the general assembly, the governor, and the supreme court on or before December 16, 2002.

DIVISION III DEPARTMENT OF NATURAL RESOURCES

Sec. 26. Section 15.221, subsection 2, paragraph c, Code 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

c. The director of the department of natural resources or the director's designee.

Sec. 27. Section 15A.1, subsection 3, paragraph b, Code Supplement 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. 28. Section 15E.111, subsection 1, paragraph b, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Financial assistance awarded under this section may be in the form of a loan, loan guarantee, grant, production incentive payment, or a combination of financial assistance. The department shall not award more than twenty-five percent of the amount allocated to the value-added agricultural products and processes financial assistance fund during any fiscal year to support a single person. The department may finance any size of facility. However, the department shall reserve up to fifty percent of the total amount allocated to the fund, for purposes of assisting persons requiring one hundred thousand dollars or less in financial assis-

tance. The amount shall be reserved until the end of the third quarter of the fiscal year. The department shall not provide financial assistance to support a value-added production facility, if the facility or a person owning a controlling interest in the facility has demonstrated a continuous and flagrant disregard for the health and safety of its employees, or the quality of the environment. Evidence of such disregard shall include a history of serious or uncorrected violations of state or federal law protecting occupational health and safety or the environment, including but not limited to serious or uncorrected violations of occupational safety and health standards enforced by the division of labor services of the department of workforce development pursuant to chapter 84A, or rules enforced by the ~~environmental protection division of the department of natural resources~~ pursuant to chapter 455B.

Sec. 29. Section 15E.208, subsection 4, paragraph b, Code Supplement 2001, is amended to read as follows:

b. An agricultural products processor, if the processor or a person owning a controlling interest in the processor has demonstrated, within the most recent consecutive three-year period prior to the application for financing, a continuous and flagrant disregard for the health and safety of its employees or the quality of the environment. Violations of environmental protection statutes, rules, or regulations shall be reported for the most recent five-year period prior to application. Evidence of such disregard shall include a history of serious or uncorrected violations of state or federal law protecting occupational health and safety or the environment, including but not limited to serious or uncorrected violations of occupational safety and health standards enforced by the division of labor services of the department of workforce development pursuant to chapter 84A, or rules enforced by the ~~environmental protection division of the department of natural resources~~ pursuant to chapter 455B.

Sec. 30. Section 28D.3, subsection 4, Code 2001, is amended to read as follows:

4. Persons employed by the ~~energy and geological resources division of the department of natural resources~~ under this chapter are not subject to the twenty-four-month time limitation specified in subsection 2.

Sec. 31. Section 89B.17, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The director of public health, the labor commissioner, and the ~~administrator of the environmental protection division~~ director of the department of natural resources or the director's designee under written signatures of all these parties may recommend any of the following actions:

Sec. 32. Section 97B.49G, subsection 6, paragraph c, Code 2001, is amended to read as follows:

c. There is appropriated from the state fish and game protection fund to the department of personnel an actuarially determined amount calculated by the Iowa public employees' retirement system sufficient to pay for the additional benefits to conservation peace officers provided by this subsection, as a percentage, in paragraph "a" and for the employer portion of the benefits provided in paragraph "b". The amount is in addition to the contribution paid by the employer under section 97B.11. The cost of the benefits relating to fish and wildlife conservation peace officers within the ~~fish and game division of the department of natural resources~~ shall be paid from the state fish and game protection fund and the cost of the benefits relating to the other conservation peace officers of the department shall be paid from the general fund.

Sec. 33. Section 103A.8, subsection 7, Code 2001, is amended to read as follows:

7. Limit the application of thermal efficiency standards for energy conservation to new construction which will incorporate a heating or cooling system. Air exchange fans designed to provide ventilation shall not be considered a cooling system. The commissioner shall exempt any new construction from thermal efficiency standards for energy conservation if the com-

missioner determines that the standards are unreasonable as they apply to a particular building or class of buildings including farm buildings for livestock use. Lighting efficiency standards shall recognize variations in lighting intensities required for the various tasks performed within the building. The commissioner shall consult with the ~~energy and geological resources division~~ of the department of natural resources regarding standards for energy conservation prior to the adoption of the standards. However, the standards shall be consistent with section 103A.8A.

Sec. 34. Section 103A.8A, Code 2001, is amended to read as follows:
103A.8A MINIMUM ENERGY EFFICIENCY STANDARD.

The state building code commissioner shall adopt as a part of the state building code a requirement that new single-family or two-family residential construction shall meet an established minimum energy efficiency standard. The standard shall be stated in terms of the home heating index developed by the physics department at Iowa state university of science and technology. The minimum standard shall be the average energy consumption of new single-family or two-family residential construction as determined by a survey conducted by the ~~energy and geological resources division~~ of the department of natural resources of the average actual energy consumption, as expressed in terms of the home heating index. The minimum standard shall only apply to single-family or two-family residential construction commenced after the adoption of the standard.

Sec. 35. Section 161B.1, subsection 2, paragraphs a and b, Code 2001, are amended by striking the paragraphs and inserting in lieu thereof the following:

- a. An administrator assigned to energy and geological resource management designated by the director of the department of natural resources.
- b. An administrator assigned to environmental protection designated by the director of the department of natural resources.

Sec. 36. Section 173.16, unnumbered paragraph 2, Code Supplement 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~~ department of natural resources.

Sec. 37. Section 206.25, Code 2001, is amended to read as follows:
206.25 PESTICIDE CONTAINERS DISPOSAL.

The department of agriculture and land stewardship, in cooperation with the ~~environmental protection division~~ of the department of natural resources, shall develop a program for handling used pesticide containers which reflects the state solid waste management policy hierarchy, and shall present the program developed to the general assembly by February 1, 1988.

Sec. 38. Section 266.39C, subsection 2, paragraph f, Code 2001, is amended to read as follows:

- f. One representative of the ~~energy and geological resources division~~ of the department of natural resources, appointed by the director.

Sec. 39. Section 427.1, subsection 19, unnumbered paragraphs 5 and 6, Code Supplement 2001, are amended to read as follows:

The application for a specific pollution-control or recycling property shall be accompanied by a certificate of the ~~administrator of the environmental protection division~~ of the department of natural resources certifying that the primary use of the pollution-control property is to control or abate pollution of any air or water of this state or to enhance the quality of any air or water of this state or, if the property is recycling property, that the primary use of the property is for recycling.

A taxpayer may seek judicial review of a determination of the ~~administrator of the environmental protection division department~~ or, on appeal, of the environmental protection commission in accordance with the provisions of chapter 17A.

Sec. 40. Section 427.1, subsection 20, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

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 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~~ director of the department of natural resources or the director's designee, 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. 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.

Sec. 41. Section 455A.6, subsection 6, paragraph d, Code 2001, is amended to read as follows:

d. Approve the budget request prepared by the director for the programs authorized by chapters 455B, 455C, 455E, and 455F, and 455H. The commission shall approve the budget request prepared by the director for programs ~~administered by the energy and geological resources division, the administrative services division, and the office of the director, as provided in section 455A.7 subject to the rulemaking authority of the commission~~. The commission may increase, decrease, or strike any item within the department budget request for the specified programs before granting approval.

Sec. 42. Section 455A.7, subsection 1, Code Supplement 2001, is amended by striking the subsection and inserting in lieu thereof the following:

1. The director may establish administrative divisions, bureaus, or other administrative entities within the department in order to most efficiently and effectively carry out the department's responsibilities. The creation or modification of departmental divisions, bureaus, or other administrative entities shall be implemented only after consultation with the natural resource commission or the environmental protection commission as applicable.

Sec. 43. Section 455A.8, subsection 1, Code 2001, is amended to read as follows:

1. The Brushy Creek recreation trails advisory board shall be organized ~~within the parks and preserves division~~ of the department and shall be composed of ten members including the following: the director of the department or the director's designee who shall serve as a non-voting ex officio member, the park ranger responsible for the Brushy Creek recreation area, a member of the state advisory board for preserves established under chapter 465C, a person appointed by the governor, and six persons appointed by the legislative council. Each person appointed by the governor or legislative council must actively participate in recreational trail activities such as hiking, an equestrian sport, or a winter sport at the Brushy Creek recreation area. The voting members shall elect a chairperson at the board's first meeting each year.

Sec. 44. Section 455A.10, Code 2001, is amended to read as follows:

455A.10 STATE FISH AND GAME PROTECTION FUND — CAPITAL PROJECTS AND CONTINGENCIES.

Funds remaining in the state fish and game protection fund during a fiscal year which are not specifically appropriated by the general assembly are appropriated and may be used for capital projects and contingencies under the jurisdiction of the department relating to fish and wildlife division arising during the fiscal year. A contingency shall not include any purpose or project which was presented to the general assembly by way of a bill or a proposed bill and which failed to be enacted into law. For the purpose of this section, a necessity of additional operating funds may be construed as a contingency. Before any of the funds authorized to be expended by this section are allocated for contingencies, it shall be determined by the executive council that a contingency exists and that the contingency was not existent while the general assembly was in session and that the proposed allocation shall be for the best interests of the state. If a contingency arises or could reasonably be foreseen during the time the general assembly is in session, expenditures for the contingency must be authorized by the general assembly.

Sec. 45. Section 455B.133, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Adopt rules allowing a city to conduct a controlled burn of a demolished building subject to the same restrictions as are in effect for fire fighting training fires. The rules shall include a provision that a city may undertake no more than three controlled burns in every overlapping six-tenths-of-a-mile-radius circle every three years. The rules shall prohibit a controlled burn of a demolished building in Cedar Rapids, Marion, Hiawatha, Council Bluffs, Carter Lake, Des Moines, West Des Moines, Clive, Windsor Heights, Urbandale, Pleasant Hill, Buffalo, Davenport, Mason City or any other area where area-specific state implementation plans require the control of particulate.¹

Sec. 46. Section 455B.480, Code Supplement 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. 47. Section 455B.481, subsection 2, Code Supplement 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~~ department which includes: the determination of need and adequate regulatory controls prior to the initiation 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. 48. Section 455B.482, subsection 4, Code Supplement 2001, is amended by striking the subsection.

Sec. 49. Section 455B.483, Code Supplement 2001, is amended by striking the section and inserting in lieu thereof the following:

455B.483 WASTE MANAGEMENT ASSISTANCE.

The director of the department of natural resources shall provide for administration of the provisions of this part.

¹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §241, 262 herein

Sec. 50. Section 455B.484, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

The ~~division~~ department shall:

Sec. 51. Section 455B.484, subsections 2 and 9, Code Supplement 2001, are 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~~ department under this part.

9. Include in the annual report to the governor and the general assembly required by section 455A.4, subsection 1, paragraph "d", information outlining the activities of the ~~division~~ department in carrying out programs and responsibilities under this part, and identifying trends and developments in the management of waste. The report shall also include specific recommendations for attaining the goals for waste minimization and capacity assurance requirements.

Sec. 52. Section 455B.484, subsection 13, paragraph c, Code Supplement 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~~ department 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. 53. Section 455B.485, subsections 3, 4, and 5, Code Supplement 2001, are amended to read as follows:

3. Approve the budget request for the ~~land quality and waste management assistance division for administration of this part~~ 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~~ department relating to 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~~ department and other public or private persons or agencies.

Sec. 54. Section 455B.486, Code 2001, is amended to read as follows:
455B.486 FACILITY SITING.

1. The ~~division~~ department shall identify and recommend to the commission suitable sites for locating facilities for the treatment, storage, or disposal of hazardous waste within this state. The ~~division~~ department shall use site selection criteria adopted by the environmental protection commission pursuant to section 455B.487 in identifying these sites. The commission shall accept or reject the recommendation of the ~~division~~ department. If the commission rejects the recommendation of the ~~division~~ department, the commission shall state its reasons for rejecting the recommendation.

2. The commission shall adopt rules establishing criteria for the identification of sites which are suitable for the operation of low-level radioactive waste disposal facilities. The ~~division~~ department shall apply these criteria, once adopted, to identify and recommend to the commission sites suitable for locating facilities for the disposal of low-level radioactive waste. The commission shall accept or reject the recommendation of the ~~division~~ department. If the commission rejects the recommendation of the ~~division~~ department, the commission shall state its reasons for rejecting the recommendation.

Sec. 55. Section 455B.516, subsection 3, Code Supplement 2001, is amended by striking the subsection.

Sec. 56. Section 455B.517, unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

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

Sec. 57. Section 455B.517, subsection 4, Code Supplement 2001, is amended to read as follows:

4. Seek, receive, and accept funds in the form of appropriations, grants, awards, wills, bequests, endowments, and gifts for the uses designated pursuant to section 455B.133B. The ~~division~~ department shall also coordinate existing resources and oversee the disbursement of federal grant moneys to provide consistency in achieving the toxics pollution prevention goal of the state.

Sec. 58. Section 455B.518, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

The ~~division~~ department shall adopt criteria for the information required in a multimedia toxics pollution prevention plan. To the extent possible, the plans shall coordinate reporting requirements in order to minimize unnecessary duplication. The plans shall include, but are not limited to, all of the following:

Sec. 59. Section 455D.6, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 6A. Develop a strategy and recommend to the commission the adoption of rules necessary to implement by January 1, 2004, a strategy for the recycling of electronic goods and the disassembling and removing of toxic parts from electronic goods.

Sec. 60. Section 455E.11, subsection 2, paragraph a, subparagraph (1), subparagraph subdivision (b), Code Supplement 2001, is amended to read as follows:

(b) One hundred 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. 61. Section 455E.11, subsection 2, paragraph a, subparagraph (2), subparagraph subdivision (a), subparagraph subdivision part (iv), Code Supplement 2001, is amended to read as follows:

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

Sec. 62. Section 455E.11, subsection 2, paragraph b, subparagraph (3), subparagraph subdivision (b), unnumbered paragraph 1, Code Supplement 2001, is amended to read as follows:

Two percent is appropriated annually to the department and, except for administrative expenses, is transferred to the Iowa department of public health for the purpose of administering grants to counties and conducting oversight of county-based programs for the testing of private rural water supply wells, private rural water supply well sealing, and the proper closure of private rural abandoned wells and cisterns. Not more than thirty-five percent of the moneys is appropriated annually for grants to counties for the purpose of conducting programs of private rural water supply testing, private rural water supply well sealing, the proper closure of private rural abandoned wells and cisterns, or any combination thereof. An amount agreed to by the department of natural resources and the Iowa department of public health shall be retained by the department of natural resources for administrative expenses.

Sec. 63. Section 456A.16, unnumbered paragraph 5, Code 2001, is amended to read as follows:

The general assembly shall appropriate annually from the state fish and game protection

fund the amount credited to the fund from the checkoff to the ~~fish and wildlife division~~ of the department for the purposes specified in this section.

Sec. 64. Section 456A.17, unnumbered paragraph 2, Code 2001, is amended to read as follows:

The state fish and game protection fund, except as otherwise provided, consists of all moneys accruing from license fees and all other sources of revenue arising under the fish and wildlife ~~division programs~~. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the state fish and game protection fund shall be credited to that fund.

Sec. 65. Section 456A.19, unnumbered paragraphs 1 and 2, Code 2001, are amended to read as follows:

All funds accruing to the fish and game protection fund, except an equitable portion of the administration fund, shall be expended solely in carrying on the ~~fish and wildlife~~ activities embraced in the ~~fish and wildlife division~~. Expenditures incurred by the ~~division department~~ in carrying on the activities shall be only on authorization by the general assembly.

The department shall by October 1 of each year submit to the department of management for transmission to the general assembly a detailed estimate of the amount required by the department during the succeeding year for carrying on the ~~fish and wildlife~~ activities embraced in the ~~fish and wildlife division~~. The estimate shall be in the same general form and detail as required by law in estimates submitted by other state departments.

Sec. 66. Section 456A.21, subsection 1, Code 2001, is amended to read as follows:

1. A forestry management and enhancement fund is created in the state treasury under the ~~control of the department's forests and prairies division created in section 455A.7 control~~. The fund is composed of moneys deposited into the fund pursuant to section 456A.20, moneys appropriated by the general assembly, and moneys available to and obtained or accepted by the division or the department from the United States or private sources for placement in the fund.

Sec. 67. Section 473.11, subsection 3, unnumbered paragraph 1, Code 2001, is amended to read as follows:

An energy fund disbursement council is established. The council shall be composed of the governor or the governor's designee, the director of the department of management, who shall serve as the council's chairperson, the administrator of the division of community action agencies of the department of human rights, ~~the administrator of the energy and geological resources division~~ a ~~designee of the director~~ of the department of natural resources who is knowledgeable in the field of energy conservation, and a designee of the director of transportation, who is knowledgeable in the field of energy conservation. The council shall include as nonvoting members two members of the senate appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, and two members of the house of representatives appointed by the speaker of the house, after consultation with the majority leader and the minority leader of the house. The legislative members shall be appointed upon the convening and for the period of each general assembly. Not more than one member from each house shall be of the same political party. The council shall be staffed by ~~the energy and geological resources division of the department of natural resources~~. The attorney general shall provide legal assistance to the council.

Sec. 68. Section 473.11, subsection 3, paragraphs c and f, Code 2001, are amended to read as follows:

c. Work with the ~~energy and geological resources division~~ department of natural resources in adopting administrative rules necessary to administer expenditures from the trust, encourage applications for grants and loans, review and select proposals for the funding of competitive grants and loans from the energy conservation trust, and evaluate their comparative effectiveness.

f. Prepare, in conjunction with the ~~energy and geological resources division~~ department of natural resources, an annual report to the governor and the general assembly regarding earnings of and expenditures from the energy conservation trust.

Sec. 69. Section 473.11, subsection 4, Code 2001, is amended to read as follows:

4. The ~~administrator of the energy and geological resources division~~ director of the department of natural resources ~~or the director's designee~~ shall be the administrator of the energy conservation trust. The administrator shall disburse moneys appropriated by the general assembly from the funds in the trust in accordance with the federal court orders, law and regulation, or settlement conditions applying to the moneys in that fund, and subject to the approval of the energy fund disbursement council if such approval is required. The council, after consultation with the attorney general, shall immediately approve the disbursement of moneys from the funds in the trust for projects which meet the federal court orders, law and regulations, or settlement conditions which apply to that fund.

Sec. 70. Section 476.6, subsection 19, paragraph b, Code Supplement 2001, is amended to read as follows:

b. A gas and electric utility required to be rate-regulated under this chapter shall assess potential energy and capacity savings available from actual and projected customer usage by applying commercially available technology and improved operating practices to energy-using equipment and buildings. The utility shall submit the assessment to the board. Upon receipt of the assessment, the board shall consult with the ~~energy bureau of the division of energy and geological resources of the department of natural resources~~ to develop specific capacity and energy savings performance standards for each utility. The utility shall submit an energy efficiency plan which shall include economically achievable programs designed to attain these energy and capacity performance standards.

Sec. 71. Section 476.6, subsection 25, paragraph a, subparagraphs (2) and (3), Code Supplement 2001, are amended to read as follows:

(2) Copies of the initial plan and budget, as well as any subsequent updates, shall be served on the ~~environmental protection division of the department of natural resources~~.

(3) The initial multiyear plan and budget and any subsequent updates shall be considered in a contested case proceeding pursuant to chapter 17A. The ~~environmental protection division of the department of natural resources~~ and the consumer advocate shall participate as parties to the proceeding.

Sec. 72. Section 481C.1, Code 2001, is amended to read as follows:

481C.1 WILD ANIMAL DEPREDATION UNIT.

A wild animal depredation unit is established within the ~~fish and wildlife division of the department of natural resources~~. The unit shall be comprised of two wild animal depredation biologists. ~~The biologists shall serve under the director of the department of natural resources.~~

Sec. 73. DEMOLITION SITE WASTE MATERIAL TASK FORCE.

1. The department of natural resources, in cooperation with the department of economic development, shall establish a task force to study issues related to the proper disposal of waste material from buildings demolished in cities and counties. The task force shall study issues including, but not limited to, all of the following:

a. The proper removal and disposal of waste material containing lead-based paints and asbestos.

b. The proper removal and disposal of any other hazardous waste material or waste material commonly found in old buildings that may be considered a health hazard if removed improperly.

c. Any alternatives to the disposal of waste material from demolition sites such as salvage operations.

- d. The training of fire department personnel in relation to the disposal of waste material from demolition sites.
 - e. Asbestos inspection training for volunteers at the local level.
 - f. An appropriate local limit for the controlled burning of demolished buildings from which hazardous materials have been removed prior to burning.
 - g. The proper method for encouraging cooperation between cities and counties on issues related to the disposal of demolition site waste material.
2. The task force membership shall include, but not be limited to, all of the following:
 - a. Representatives from the department of natural resources knowledgeable in air toxics and toxic materials.
 - b. Representatives from the department of economic development knowledgeable in community development.
 - c. A representative of the Iowa league of cities.
 - d. A representative of the Iowa society of solid waste operators.
 - e. Four members of the general assembly with not more than one member from each chamber being from the same political party. The two senators shall be designated by the president of the senate after consultation with the majority and minority leaders of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives.
 3. By January 1, 2003, the task force shall submit a report to the general assembly, including recommendations, regarding issues relating to the disposal of debris from demolition sites in Iowa.

DIVISION IV
OVERSIGHT COMMITTEE

Sec. 74. Section 2.45, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 5. a. The legislative oversight committee composed of members designated by the legislative council. In addition to the duties assigned by the legislative council, the committee shall systematically review the programs, agencies, and functions of the executive and judicial branches of government to ensure that public resources are used in the most efficient manner to benefit the people of Iowa.

b. The committee shall implement a systematic process of assessing the programs, agencies, and functions. Annually, by October 1, the committee shall identify the programs, agencies, and functions that will be subject to review and evaluation in the succeeding calendar year. An agency of state government selected by the committee for review and evaluation shall provide information as required by the committee, which may include but is not limited to the following:

(1) Identifying the activities, services, products, and functions of the agency, including identifying those that are required and the source of the requirement. At minimum, the sources identified shall include state law, state administrative rule, federal law, and federal regulation.

(2) Specifying for all activities, services, products, and functions, the users or clientele, and the current level of need for and the level of satisfaction with the activity, service, product, or function.

(3) Listing each discretionary activity, service, product, or function of the agency that is not required by state law, state administrative rule, federal law, or federal regulation.

(4) Identifying the degree of alignment between the agency strategic plan adopted pursuant to section 8E.206 and the requirements of the agency in state law and administrative rule.

(5) Identifying alternative methods of providing the agency's existing activities, services, products, and functions, and quantifying the impact to Iowans if such activities, services, products, or functions are no longer provided by the agency.

DIVISION V
DEPARTMENT OF INSPECTIONS AND APPEALS
BIRTH CENTERS

Sec. 75. Section 10A.104, subsection 9, Code 2001, is amended to read as follows:

9. Administer and enforce this chapter, and chapters 99B, 135B, 135C, ~~135G~~, 135H, 135J, 137C, 137D, and 137F.

Sec. 76. Section 10A.702, subsections 1 and 2, Code 2001, are amended to read as follows:

1. Investigations relative to the standards and practices of hospitals, hospices, ~~birth centers~~, and health care facilities.

2. Inspections and other licensing procedures relative to the hospice program, hospitals, ~~birth centers~~, and health care facilities. The division is designated as the sole licensing authority for these programs and facilities.

Sec. 77. Section 135.61, subsection 2, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

2. "Birth center" means a facility or institution, which is not an ambulatory surgical center or a hospital or in a hospital, in which births are planned to occur following a normal, uncomplicated, low-risk pregnancy.

Sec. 78. Section 252A.2, Code 2001, is amended to read as follows:

252A.2 DEFINITIONS.

As used in this chapter, unless the context shall require otherwise, the following terms shall have the meanings ascribed to them by this section:

~~1. "Birth center" means birth center as defined in section 135G.2.~~

2. 1. "Birthing hospital" means a private or public hospital licensed pursuant to chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services, or a licensed birthing center associated with a hospital.

~~3.~~ 2. "Child" includes but shall not be limited to a stepchild, foster child or legally adopted child and means a child actually or apparently under eighteen years of age, and a dependent person eighteen years of age or over who is unable to maintain the person's self and is likely to become a public charge.

4. 3. "Court" shall mean and include any court upon which jurisdiction has been conferred to determine the liability of persons for the support of dependents.

5. 4. "Dependent" shall mean and include a spouse, child, mother, father, grandparent or grandchild who is in need of and entitled to support from a person who is declared to be legally liable for such support.

6. 5. "Institution" means a birthing hospital ~~or birth center~~.

~~7. "Petitioner" includes each dependent person for whom support is sought in a proceeding instituted pursuant to this chapter or a mother or putative father of a dependent. However, in an action brought by the child support recovery unit, the state is the petitioner.~~

8. 6. "Party" means a petitioner, a respondent, or a person who intervenes in a proceeding instituted under this chapter.

7. "Petitioner" includes each dependent person for whom support is sought in a proceeding instituted pursuant to this chapter or a mother or putative father of a dependent. However, in an action brought by the child support recovery unit, the state is the petitioner.

9. 8. "Petitioner's representative" includes counsel of a dependent person for whom support is sought and counsel for a mother or putative father of a dependent. In an action brought by the child support recovery unit, "petitioner's representative" includes a county attorney, state's attorney and any other public officer, by whatever title the officer's public office may be known, charged by law with the duty of instituting, maintaining, or prosecuting a proceeding under this chapter or under the laws of the state.

10. 9. "Putative father" means a man who is alleged to be or who claims to be the biological

father of a child born to a woman to whom the man is not married at the time of the birth of the child.

~~11.~~ 10. "Register" means to file a foreign support order in the registry of foreign support orders maintained as a filing in equity by the clerk of court.

~~12.~~ 11. "Respondent" includes each person against whom a proceeding is instituted pursuant to this chapter. "Respondent" may include the mother or the putative father of a dependent.

~~13.~~ 12. "State registrar" means state registrar as defined in section 144.1.

Sec. 79. Chapter 135G, Code 2001, is repealed.

Approved May 10, 2002

CHAPTER 1163

TOBACCO SETTLEMENT AGREEMENT — MISCELLANEOUS PROVISIONS — LITIGATION COSTS

S.F. 2317

AN ACT relating to the tobacco master settlement agreement, including tobacco product manufacturer compliance, making an appropriation, and providing penalties.

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

**Section 1. Section 453A.22, subsection 1, Code 2001, is amended to read as follows:*

*1. If a person holding a permit issued by the department under this division, including a retailer permit for railway car, has willfully violated section 453A.2 or 453A.58, the department shall revoke the permit upon notice and hearing. If the person violates any other provision of this division, or a rule adopted under this division, or is substantially delinquent in the payment of a tax administered by the department or the interest or penalty on the tax, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the permit-holding corporation, or interest or penalty on the tax, administered by the department, the department may revoke the permit issued to the person, after giving the permit holder an opportunity to be heard upon ten days' written notice stating the reason for the contemplated revocation and the time and place at which the person may appear and be heard. The hearing before the department may be held at a site in the state as the department may direct. The notice shall be given by mailing a copy to the permit holder's place of business as it appears on the application for a permit. If, upon hearing, the department finds that the violation has occurred, the department may revoke the permit.**

**Sec. 2. Section 453A.44, subsection 10, Code 2001, is amended to read as follows:*

10. The director may revoke, cancel, or suspend the license or licenses of any distributor or subjobber for violation of any of the provisions of this division, for violation of section 453A.58, or for violation of any other act applicable to the sale of tobacco products, or any rule or regulations promulgated by the director in furtherance of this division. No license shall be revoked,

* Item veto; see message at end of the Act

canceled, or suspended except after notice and a hearing by the director as provided in section 453A.48.*

DIVISION IV
MANUFACTURERS' COMPLIANCE

*Sec. 3. NEW SECTION. 453A.57 DEFINITIONS.

For the purposes of this division, unless the context otherwise requires:

1. "Cigarette" means the same as defined in section 453C.1.
2. "Distributor" means the same as defined in sections 453A.1 and 453A.42.
- 2A. "Master settlement agreement" means the same as defined in section 453C.1.
3. "Tobacco product manufacturer" means the same as defined in section 453C.1.*

*Sec. 4. NEW SECTION. 453A.58 DISTRIBUTORS — DETERMINATION OF TOBACCO PRODUCT MANUFACTURER COMPLIANCE.

1. A distributor shall not affix stamps or cause stamps to be affixed to individual packages of any brand of cigarettes sold or distributed by the distributor in this state and shall not act as a distributor for any roll-your-own-tobacco unless either of the following conditions applies:

a. The tobacco product manufacturer of the brand, or any predecessor tobacco product manufacturer of the brand, is a participating manufacturer in compliance with section 453C.2, subsection 1.

b. The tobacco product manufacturer of the brand, or any predecessor tobacco product manufacturer of the brand, has provided the distributor with a current certification that such tobacco product manufacturer and all predecessor tobacco product manufacturers of the brand are in full compliance with section 453C.2, subsection 2.

2. A distributor shall not affix stamps or cause stamps to be affixed to individual packages of any brand of cigarettes, subsequent to notice to the distributor by the department of revenue and finance that the tobacco product manufacturer is in violation of chapter 453C with reference to that brand.*

*Sec. 5. NEW SECTION. 453A.59 TOBACCO PRODUCT MANUFACTURER CERTIFICATION.

1. A tobacco product manufacturer whose cigarettes are sold for consumption in this state shall quarterly certify, under penalty of perjury, that as of the date of certification, the tobacco product manufacturer and any predecessor of the tobacco product manufacturer are either of the following:

a. A participating manufacturer pursuant to section 453C.2, subsection 1.

b. In full compliance with section 453C.2, subsection 2.

2. A certification under subsection 1 shall also state, under penalty of perjury, that the tobacco product manufacturer is in compliance with section 453A.62, and shall be accompanied by a list of cigarette brands sold by the tobacco product manufacturer in this state.

3. If certification is made pursuant to subsection 1, paragraph "b", the certification shall also state, under penalty of perjury, that the per unit price to the distributor includes an amount equal to the amount required to be placed into escrow under section 453C.2, subsection 2.

4. A copy of the certification shall be delivered to the director, the attorney general, and any distributor of the tobacco product manufacturer. A distributor shall retain a copy of the certificate for two years from the date of receipt.

5. The director shall prescribe the form of the certificate required and the specific dates on which the certificate must be filed.*

*Sec. 6. NEW SECTION. 453A.60 CIVIL PENALTIES.

A distributor that violates this division is subject to the civil penalties specified in section 453A.31, subsection 2.*

* Item veto; see message at end of the Act

**Sec. 7. NEW SECTION. 453A.61 INFORMATION EXCHANGE.*

*For the purposes of enforcement of chapter 453C and this division, the department and the attorney general may share all information collected under chapter 453C and this division with each other, with the national association of attorneys general, and with agencies of other states responsible for enforcement of cigarette and tobacco laws.**

**Sec. 8. NEW SECTION. 453A.62 REGISTERED AGENT.*

1. A tobacco product manufacturer whose cigarettes are sold for consumption in this state shall, prior to any such sale, maintain in this state both a registered office and a registered agent that meet the criteria prescribed in section 490.501.

2. A registered agent is the tobacco product manufacturer’s agent for service of process, notice, or demand required or permitted by law to be served on the tobacco product manufacturer.

3. If a tobacco product manufacturer does not have a registered agent, or the agent cannot be served with reasonable diligence, the tobacco product manufacturer may be served by any means provided in section 490.504.

*4. Registration and changes of a registered office or registered agent or resignation of a registered agent shall be filed with the department in accordance with rules adopted by the department.**

Sec. 9. TOBACCO SETTLEMENT FUND — APPROPRIATION — LITIGATION COSTS.

There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund established in section 12E.12, 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 supplement the appropriation made in 2001 Iowa Acts, chapter 176, section 25, to be used for the purpose designated:

For payment of litigation fees incurred pursuant to the tobacco master settlement agreement:

..... \$ 944,880

Sec. 10. EFFECTIVE DATE. Section 9 of this Act relating to an appropriation from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund for payment of litigation fees, being deemed of immediate importance, takes effect upon enactment.

Approved May 10, 2002, with exceptions noted

THOMAS J. VILSACK, Governor

Dear Secretary Culver:

I hereby transmit Senate File 2317, an Act relating to the tobacco master settlement agreement, including tobacco product manufacturer compliance, making an appropriation, and providing penalties. This legislation provides additional remedies to aid in the enforcement of the Model Statute, Code chapter 453C which was required to be approved and enforced by the State in the Master Settlement Agreement with the Tobacco manufacturers.

Sections 1 – 8 of this bill would require compliance with chapter 453C before a distributor could affix stamps to the product. Additionally, a registered agent would be required for service of process of those out of state manufacturers selling in this state. Iowa is required to “diligently enforce” chapter 453C and penalties for failure to are monetary and substantial. The

* Item veto; see message at end of the Act

possibility exists that the entire amount owed to Iowa for any particular year could be eliminated if the statute is not diligently enforced.

Section 9 is the balance owed the private counsel retained to represent Iowa in its litigation against the Tobacco manufacturers. The original appropriation contained in House File 755, section 25, of last year's appropriation was \$944, 877.60 short of the obligation owed to the attorneys by contract. The shortage was created when estimates paid by Tobacco manufacturers over the last three years did not meet actual obligation. When the contractual obligation to the attorneys is concluded, the balance of the payments will be assigned to the State.

In its present form there is some question as to whether Sections 1 – 8 would jeopardize Iowa having a qualified model statute within the meaning of the Master Settlement Agreement. That in itself would result in substantial monetary penalties for the State.

Senate File 2317 is, therefore, signed on this date with the following exceptions, which I hereby disapprove.

I am unable to approve Sections 1 – 8 given the potential to put Iowa in non-compliance with the Master Settlement Agreement. I look forward to working with lawmakers to approve legislation that would ensure compliance with the Master Settlement Agreement and not jeopardize these funds.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 2317 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, Governor

CHAPTER 1164

INTERSTATE PRESCRIPTION DRUG PURCHASING COOPERATIVE

H.F. 2192

AN ACT relating to the establishment of a task force to develop an interstate prescription drug purchasing cooperative.

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

Section 1. INTERSTATE PRESCRIPTION DRUG PURCHASING COOPERATIVE — TASK FORCE — REPORT.

1. The Iowa department of public health shall convene a task force to determine the feasibility of establishing an interstate prescription drug purchasing cooperative with other midwestern states.

2. The task force shall consist of all of the following voting members:

- a. The director of public health, or the director's designee.
- b. The director of human services, or the director's designee.
- c. The director of the department of elder affairs, or the director's designee.

- d. The director of the department of management, or the director's designee.
 - e. The director of the department of personnel, or the director's designee.
 - f. Four members of the general assembly.
3. a. The legislative members of the task force shall be appointed by the majority leader of the senate, after consultation with the president of the senate and the minority leader of the senate, and by the speaker of the house of representatives, after consultation with the majority leader and the minority leader of the house of representatives. The legislative appointments shall comply with sections 69.16 and 69.16A.
 - b. Vacancies on the task force shall be filled by the original appointing authority and in the manner of the original appointments.
 4. The task force shall elect a chairperson. A majority of the members of the task force shall constitute a quorum. A majority vote of those members present shall be required for any action of the task force. The Iowa department of public health and the department of human services shall cooperate in providing staffing for the task force.
 5. All of the following shall act as advisors to the task force:
 - a. The chairperson of the board of pharmacy examiners, or the chairperson's designee.
 - b. The chairperson of the board of medical examiners, or the chairperson's designee.
 - c. One person who is a representative of pharmaceutical manufacturers, selected by the pharmaceutical research and manufacturers of America.
 - d. One person who is a representative of the Iowa pharmacy association, selected by the Iowa pharmacy association.
 - e. One person who is a representative of the Iowa medical society, selected by the Iowa medical society.
 6. The task force shall pursue the development of an interstate prescription drug purchasing cooperative through a minimum of the following means:
 - a. Utilizing regional and national entities such as the council of state governments, the national conference of state legislatures, and others in establishing contact with the governors and legislative leaders of other midwestern states.
 - b. Contacting the governors and legislative leaders of other states with existing interstate cooperatives, including the states participating in the southern states coalition purchasing pool, and other interstate cooperatives.
 - c. Contacting industry trade associations whose members are involved in the delivery and reimbursement of state-funded pharmaceutical care.
 7. The task force shall submit bimonthly progress reports of its findings and recommendations regarding the establishment of an interstate prescription drug purchasing cooperative to the oversight committee of the legislative council. The task force shall also submit a final report of its findings and recommendations to the governor and the general assembly no later than December 15, 2002.

Approved May 11, 2002

CHAPTER 1165

MEDICAL ASSISTANCE — APPROPRIATIONS AND RELATED PROVISIONS

H.F. 2245

AN ACT relating to the medical assistance program, making appropriations and transfers of funds, and providing an effective date.

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

Section 1. DEPARTMENT OF HUMAN SERVICES APPROPRIATION — SENIOR LIVING TRUST FUND — MEDICAL ASSISTANCE. After applying the reduction made pursuant to executive order number 24² to the appropriation made to the department of human services for the medical assistance program for the fiscal year beginning July 1, 2001, and ending June 30, 2002, 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 amount, or so much thereof as is necessary, to supplement appropriations made for the following designated purpose:

To supplement the appropriation made for the medical assistance program in 2001 Iowa Acts, chapter 184, section 1; 2001 Iowa Acts, chapter 191, section 7; 2001 Iowa Acts, chapter 192, section 2; and any appropriation made for fiscal year 2001-2002 for the medical assistance program in this or any other Act:

..... \$ 39,000,000

Sec. 2. DEPARTMENT OF HUMAN SERVICES — SENIOR LIVING TRUST FUND — TRANSFER. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, there is transferred from the appropriation made to the department of human services pursuant to 2001 Iowa Acts, chapter 192, section 2, subsection 1, to provide grants to nursing facilities for conversion to assisted living programs or to provide long-term care alternatives, the following amount, or so much thereof as is necessary, to supplement the appropriation made for the medical assistance program in 2001 Iowa Acts, chapter 184, section 1; 2001 Iowa Acts, chapter 191, section 7; 2001 Iowa Acts, chapter 192, section 2; and any appropriation made for fiscal year 2001-2002 for the medical assistance program in this or any other Act:

..... \$ 9,500,000

Sec. 3. DEPARTMENT OF HUMAN SERVICES — TOBACCO SETTLEMENT FUND — APPROPRIATION — MEDICAL ASSISTANCE. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, there is appropriated from the endowment for Iowa’s health account of the tobacco settlement trust fund created in section 12E.12, to the department of human services the following amount, or so much thereof as is necessary, to supplement the appropriation made for the medical assistance program in 2001 Iowa Acts, chapter 184, section 1; 2001 Iowa Acts, chapter 191, section 7; 2001 Iowa Acts, chapter 192, section 2; and any appropriation made for fiscal year 2001-2002 for the medical assistance program in this or any other Act:

..... \$ 2,500,000

Sec. 4. DEPARTMENT OF HUMAN SERVICES APPROPRIATION — HOSPITAL TRUST FUND.

1. There is appropriated from the hospital trust fund created in section 249I.4 to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary, to be used to supplement the appropriation made for the medical assistance program in 2001 Iowa Acts, chapter 184, section 1; 2001 Iowa Acts, chapter 191, section 7; 2001 Iowa Acts, chapter 192, section 2; and any appropriation made for fiscal year 2001-2002 for the medical assistance program in this or any other Act:

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

² Published in IAB, XXIV, 11, November 28, 2001, page 858

2. Following the appropriation of moneys pursuant to subsection 1, of the moneys remaining in the hospital trust fund, \$2,500,000 shall be transferred to and deposited in the endowment for Iowa's health account of the tobacco settlement trust fund created in section 12E.12.

3. Following the appropriation of moneys pursuant to subsection 1, and the transfer and deposit of moneys pursuant to subsection 2, any remaining moneys in the hospital trust fund shall be transferred to and deposited in the senior living trust fund created in section 249H.4.

Sec. 5. FEDERAL FUNDS — CONTINGENCY — TOBACCO SETTLEMENT FUND — MEDICAL ASSISTANCE. If federal funds are not received in accordance with chapter 249I, during the fiscal year beginning July 1, 2001, and ending June 30, 2002, there is appropriated from the endowment for Iowa's health account of the tobacco settlement trust fund created in section 12E.12, to the department of human services for that fiscal year the following amount or so much thereof as is necessary, to be used to supplement the appropriation made for the medical assistance program in 2001 Iowa Acts, chapter 184, section 1; 2001 Iowa Acts, chapter 191, section 7; 2001 Iowa Acts, chapter 192, section 2; and any appropriation made for fiscal year 2001-2002 for the medical assistance program in this or any other Act:

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

1. However, if federal funds are received in accordance with chapter 249I at any time during the succeeding fiscal year, the first \$7,000,000 shall be transferred to and deposited in the endowment for Iowa's health account of the tobacco settlement trust fund created in section 12E.12.

2. If federal funds are not received as provided in subsection 1, the department of human services shall transfer \$7,000,000 of the moneys appropriated to the department in that fiscal year to the endowment for Iowa's health account of the tobacco settlement trust fund created in section 12E.12.

Sec. 6. FEDERAL FUNDS — TRANSFER AND DEPOSIT IN TRUST FUNDS. If federal funding is not received during the fiscal year beginning July 1, 2001, in accordance with chapter 249I, but unanticipated federal funding is received during the fiscal years beginning July 1, 2001, or beginning July 1, 2002, the purpose of which is to reimburse the costs of the medical assistance program, the unanticipated funding received shall be credited as follows:

1. Of the moneys received, \$2,500,000 shall be credited to the endowment for Iowa's health account of the tobacco settlement trust fund created in section 12E.12.

2. Following the crediting of moneys pursuant to subsection 1, any remaining moneys received shall be credited to the senior living trust fund created in section 249H.4.

Sec. 7. MEDICAL ASSISTANCE — REPORTING REQUIREMENTS — DENTAL SERVICES FOR ADULTS — PHARMACEUTICAL COPAYMENT.

1. The department of human services shall require applicants for or recipients of medical assistance to report changes in income or resources that affect eligibility on a monthly basis.

2. Beginning March 1, 2002, adults receiving dental services under the medical assistance program shall receive only preventive services, diagnostic services, restorative services limited to white and silver fillings, and prosthetic services limited to dentures only if the dentures are necessary to establish masticatory function.³

*3. The department of human services shall require recipients of medical assistance to pay the following copayment on each covered drug prescription, including each refill as follows:

- a. A copayment of \$1 for each covered generic drug prescription.
- b. A copayment of \$1 for each covered brand-name drug prescription for which the cost to the state is less than \$25.
- c. A copayment of \$2 for each covered brand-name drug prescription for which the cost to the state is between \$25 and \$50.
- d. A copayment of \$3 for each covered brand-name drug prescription for which the cost to the state is over \$50.*

* Item veto; see message at end of the Act

³ See chapter 1175, §51, 70; 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §137, 151 herein

Sec. 8. MEDICAL ASSISTANCE ADVISORY GROUP.

1. The department of human services shall convene a joint legislative and executive branch medical assistance advisory group to provide ongoing analysis and recommendations regarding the medical assistance program in this state. The membership of the advisory group shall consist of the chairpersons and ranking members of the human services appropriations subcommittee, the director of the department of management, and the director of human services. The goal of the advisory group shall be to propose recommendations for systemic changes in the medical assistance program to reduce state costs.

2. The advisory group shall consider, at a minimum, the reports and recommendations of the joint legislative and executive branch medical assistance work group that met in fall 2001, including but not limited to recommendations related to alternative forecasting methods in determining participation in the medical assistance program and options relating to prescription drugs. The advisory group shall also consult with national and regional entities, including but not limited to the national conference of state legislatures, the council of state governments, the national governors association, and other entities that may provide assistance in addressing growth in and cost-containment strategies related to the medical assistance program.

3. The advisory group shall submit a report to the fiscal committee and to the chairpersons and members of the human services appropriations subcommittee no later than June 1, 2002. The advisory group shall meet, as necessary, to continue review of the medical assistance program.

*Sec. 9. NEW SECTION. 249A.20A NURSING FACILITIES — DUAL CERTIFICATION REQUIRED.

*Beginning October 1, 2002, all licensed nursing facilities shall be certified under both the federal Medicare program and the medical assistance program as a condition for participation in the medical assistance program.**

Sec. 10. EMERGENCY RULES. If it is necessary to adopt rules to implement a provision of this Act, the department of human services 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. 11. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved February 8, 2002, with exceptions noted.

THOMAS J. VILSACK, Governor

Dear Speaker Siegrist:

I hereby transmit House File 2245, an Act relating to the medical assistance program, making appropriations and transfers of funds, and providing an effective date.

The medical assistance supplemental bill is vitally important for hundreds of thousands of Iowans. This bill makes significant strides toward addressing the increased demand for medical services by families in need.

* Item veto; see message at end of the Act

However, the bill has several provisions which I cannot support. I oppose attempts to raise prescription costs on Iowans in need and add an unnecessary, burdensome layer of bureaucracy and cost to the delivery of medical assistance. In addition, the anticipated cost savings for some provisions are overstated. The burdens created for some families and health care providers are also unacceptable.

House File 2245 is, therefore, signed on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 4, subsection 2 in its entirety. This language directs any remaining funds in the Hospital Trust Fund after the first \$7 million is appropriated to replace the \$2.5 million in the Tobacco Endowment. By vetoing this provision, any funds remaining in the Hospital Trust Fund would be transferred to the Senior Living Trust in accordance with Section 4, subsection 3 of the bill. This veto will improve the balance between resources used by the Senior Living Trust and Tobacco Settlement Endowment. It will also preserve the priority of long-term care transitions over the endowment.

I am unable to approve the item designated as Section 5, subsection 2 in its entirety. This language directs that if certain federal funds are not received during the present fiscal year, the Department of Human Services appropriations will be reduced by up to \$7 million — funds used to protect children and provide health care coverage for uninsured Iowans. The provision punishes children and Iowans in need because of action on the part of the federal government.

I am unable to approve the item designated as Section 7, subsection 1 in its entirety. The Legislature's bill would require additional bureaucracy and associated costs by calling for monthly reporting requirements for those who experience a change in income, mailing address, household composition, or health insurance. In doing so, the Legislature would be creating an additional layer of bureaucracy, and an additional layer of cost to process the monthly reports. This new bureaucratic requirement is particularly unnecessary, considering the Department of Human Services already requires Iowans in need who receive medical assistance to report changes in such factors. This is an example of an area where the projected savings are overstated.

While I am not recommending a veto of the section relating to restrictions on dental services that would be available to medical assistance recipients, as now passed, most of the projected savings have been eliminated. Savings under this proposal are much less than the amount indicated by the Legislature of \$1.6 million for four months.

I am unable to approve the item designated as Section 7, subsection 3 in its entirety. The provision would increase the cost of prescription drugs for Iowans most in need. This, in effect, is a tax on a group — aged, blind, disabled, children, caretakers with very little or no income. Additionally, if the individuals do not have the funds, the pharmacist is required to dispense the drug anyway. This requires pharmacists to subsidize the costs and creates an additional reluctance on the part of pharmacists to handle Medicaid patients.

I am unable to approve the item designated as Section 9 in its entirety. The provision would require nursing facilities to be certified for Medicaid and Medicare — even if the nursing facility does not take Medicare patients. Therefore I have directed the Department of Human Services to immediately prepare administrative rules to address dual certification for all applicable nursing facilities, thus requiring certification of a nursing facility for both Medicare and Medicaid when they are, in fact, providing services for clients of each program. The directive avoids unnecessary additional administrative cost for dual certification that would be borne by the state, over 62 nursing facilities (which do not need the dual certification, nor will they in the future serve Medicare clients), and Iowans who receive nursing home services.

For the above reasons, I respectfully disapprove these items in accordance with Amendment

IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2245 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, Governor

CHAPTER 1166

MISCELLANEOUS APPROPRIATIONS,
REDUCTIONS, TRANSFERS, AND OTHER PROVISIONS
S.F. 2304

AN ACT relating to public funding and regulatory matters and making, reducing, and transferring appropriations for the fiscal year beginning July 1, 2001, and including an effective date.

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

DIVISION I
IOWA ECONOMIC EMERGENCY FUND

Section 1. SCHOOL FOUNDATION AID. There is appropriated from the Iowa economic emergency fund created in section 8.55 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 purpose designated:

For supplanting an equal amount from the appropriation made from the general fund of the state for the fiscal year beginning July 1, 2001, pursuant to section 257.16, to pay that part of foundation aid which represents the allowable growth amounts for all school districts:
..... \$ 44,852,353

Sec. 2. EMERGENCY EXPENDITURES. The moneys appropriated in this division of this Act are declared to be appropriated for emergency expenditures as required in section 8.55, subsection 3, paragraph "a".

Sec. 3. EFFECT OF APPROPRIATIONS. An appropriation from the general fund of the state, which is supplanted by an appropriation from the Iowa economic emergency fund made in this division of this Act, shall be reduced by the amount of the appropriation which supplants it.

DIVISION II
UNIFORM REDUCTION EXEMPTION

Sec. 4. APPROPRIATIONS EXEMPT. The appropriations made from the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, for the following designated purposes are exempt from the uniform appropriation reduction made pursuant to this Act for the executive branch:

- 1. For medical assistance in 2001 Iowa Acts, chapter 191, section 7.

2. For child and family services in 2001 Iowa Acts, chapter 191, section 14.
3. For department of corrections facilities in 2001 Iowa Acts, chapter 186, section 4, and 2001 Iowa Acts, Second Extraordinary Session, chapter 6, section 7, subsection 1.
4. For community colleges in 2001 Iowa Acts, chapter 181, section 6, subsection 14, and 2001 Iowa Acts, Second Extraordinary Session, chapter 6, section 4.
5. For the college student aid commission in sections 261.25 and 261.85, and 2001 Iowa Acts, chapter 181, section 1.
6. For payments in lieu of tuition allocated by the state board of regents in 2001 Iowa Acts, chapter 176, section 19, and 2001 Iowa Acts, Second Extraordinary Session, chapter 6, section 5, subsection 1.
7. For the family development and self-sufficiency grant program administered by the department of human services.
8. For the following tax reimbursements: personal property tax replacement in section 405A.8, franchise tax revenue allocation in section 405A.10, livestock production tax credit refund in section 422.121, homestead tax credit in section 425.1, extraordinary property tax credit and reimbursement in section 425.39, family farm tax credit and agricultural land tax credit in sections 425A.1 and 426.1, military service tax credit in section 426A.1A, property tax relief in section 426B.1 and 2001 Iowa Acts, Second Extraordinary Session, chapter 6, section 1, subsection 13, industrial machinery, equipment and computers property tax replacement in section 427B.19A, and cigarette and little cigar tax stamps in section 453A.8.
9. For the following education-related purposes: Iowa early intervention block grant program in section 256D.5, subsection 1; foundation and supplementary aid under section 257.16; instructional support state aid to school districts in section 257.20; tuition grants in section 261.25, subsection 1; child development grants and other programs for at-risk children in section 279.51; educational excellence in section 294A.25; school improvement technology in section 256D.5, subsection 2; nonpublic school transportation in section 285.2; department of education for distribution to area education agency XVI in 2001 Iowa Acts, Second Extraordinary Session, chapter 6, section 18, subsection 2; and including but not limited to any of the purposes listed in this subsection that also received an appropriation in 2001 Iowa Acts, Second Extraordinary Session, chapter 6.
10. For Iowa communications network debt service in 2001 Iowa Acts, chapter 176, section 21, and 2001 Iowa Acts, Second Extraordinary Session, chapter 6, section 2.
11. For the department of commerce in 2001 Iowa Acts, chapter 187, section 3, and in standing appropriations and statutory provisions authorizing the department or its divisions to utilize fees for regulatory activities for the fiscal year beginning July 1, 2001.
12. For the department of human services for the family investment program in 2001 Iowa Acts, chapter 191, section 4.
13. For state unemployment compensation under chapter 96.
14. For legal services to persons in poverty grants in 2001 Iowa Acts, chapter 186, section 1, subsection 11, and for the state public defender in 2001 Iowa Acts, chapter 186, section 9, and for payment of special court costs and attorney fees under section 815.1.
15. For payments authorized in accordance with law by the state appeal board.
16. For the statewide fire and police retirement system in section 411.20, as limited by section 8.59.
17. For the deferred compensation program established for state employees under section 509A.12.
18. For deposit in the school ready children grants account of the Iowa empowerment fund in 2001 Iowa Acts, chapter 181, section 6, subsection 10.
19. For the department of public defense in 2001 Iowa Acts, chapter 186, section 12, and 2001 Iowa Acts, Second Extraordinary Session, chapter 6, section 9.
20. For the state school for the deaf and the Iowa braille and sight saving school in 2001 Iowa Acts, chapter 181, section 8, subsections 5 and 6, and 2001 Iowa Acts, Second Extraordinary Session, chapter 6, section 5, subsections 3 and 4.

DIVISION III
TRANSFERS OF APPROPRIATIONS

Sec. 5. RISK POOL. Notwithstanding sections 426B.1 and 426B.5, subsection 2, paragraph “d”, subparagraph (6), there is transferred from the property tax relief fund risk pool created in section 426B.5, subsection 2, to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

..... \$ 1,500,000

Sec. 6. DEPRECIATION FUND. Notwithstanding section 18.120, there is transferred from the depreciation fund created in section 18.120 for the purchase of replacement motor vehicles and additions to the fleet, to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

..... \$ 2,200,000

Sec. 7. REGENTS INFRASTRUCTURE. Of the moneys appropriated to the state board of regents in 1997 Iowa Acts, chapter 215, section 23, subsection 1, paragraph “a”, and allocated for construction of the livestock infectious disease isolation facility, there is transferred to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

..... \$ 2,797,000

Sec. 8. TRAILS. Of the moneys appropriated to the state department of transportation for trail projects in 1997 Iowa Acts, chapter 215, sections 12 and 13, and 1999 Iowa Acts, chapter 204, section 11, subsection 3, there is transferred to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

..... \$ 5,500,000

Sec. 9. AVIATION HANGARS. Of the moneys appropriated to the state department of transportation for general aviation hangar projects in 2000 Iowa Acts, chapter 1225, section 16, and deposited in an aviation hangar revolving loan fund, there is transferred to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

..... \$ 360,000

Sec. 10. HEALTHY IOWANS TOBACCO TRUST. Notwithstanding sections 12.65 and 12E.12, there is transferred from the healthy Iowans tobacco trust created in section 12.65 to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

..... \$ 6,000,000

Moneys transferred pursuant to this section shall be from moneys deposited in the healthy Iowans tobacco trust which are not from proceeds from the tax-exempt bonds issued pursuant to chapter 12E.

Sec. 11. STRATEGIC INVESTMENT FUND. Notwithstanding section 15.313, subsection 2, there is transferred from the strategic investment fund created in section 15.313 to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

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

Sec. 12. VALUE-ADDED AGRICULTURAL PRODUCTS. Notwithstanding section 15E.112, subsection 1, there is transferred from the value-added agricultural products and processes financial assistance fund created in section 15E.112 to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

..... \$ 500,000

Sec. 13. BRUCELLOSIS AND TUBERCULOSIS ERADICATION FUND. Notwithstanding section 165.18, subsection 1, there is transferred from the brucellosis and tuberculosis eradication fund created in section 165.18 to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

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

Sec. 14. REAP. Notwithstanding section 455A.19, there is transferred from the Iowa resources enhancement and protection fund created in section 455A.18 to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

..... \$ 2,800,000

Sec. 15. ENVIRONMENT FIRST FUND. Notwithstanding section 8.57A, subsection 3, there is transferred from the environment first fund created in section 8.57A to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

..... \$ 3,000,000¹

Sec. 16. ENDOWMENT FOR IOWA'S HEALTH ACCOUNT. Notwithstanding 2001 Iowa Acts, chapter 174, section 1, there is transferred from the endowment for Iowa's health account of the tobacco settlement trust fund created in section 12E.12 to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amounts:

1. From the appropriation made for the fiscal year beginning July 1, 2001, from moneys received pursuant to sections 99D.17 and 99F.11 in 2001 Iowa Acts, chapter 174, section 1, subsection 1:

..... \$ 15,000,000

2. From the appropriation made for the fiscal year beginning July 1, 2001, from the general fund of the state in 2001 Iowa Acts, chapter 174, section 1, subsection 2:

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

Sec. 17. POOLED TECHNOLOGY ACCOUNT. Notwithstanding 2001 Iowa Acts, chapter 189, section 5, there is transferred from the pooled technology account established in the office of the treasurer of state under the control of the information technology department to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

..... \$ 700,000

Sec. 18. TRANSFER DATE. The transfers specified in this division of this Act shall begin on the effective date of this Act.

DIVISION IV
JUDICIAL BRANCH

Sec. 19. 2001 Iowa Acts, chapter 179, section 1, unnumbered paragraph 2, as amended by 2001 Iowa Acts, Second Extraordinary Session, chapter 6, section 16, is amended to read as follows:

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

¹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1001, §1, 52 herein

court during the fiscal year beginning July 1, 2001, and maintenance, equipment, and miscellaneous purposes:

.....	\$	108,688,725
		<u>107,552,799</u>

Sec. 20. 2001 Iowa Acts, chapter 179, section 2, as amended by 2001 Iowa Acts, Second Extraordinary Session, chapter 6, section 17, 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, 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, subsection 4, paragraph "b", for the state's contribution to the judicial retirement fund in the amount of 15.9 percent of the basic salaries of the judges covered under chapter 602, article 9:

.....	\$	3,069,897
		<u>3,039,198</u>

Sec. 21. JUDICIAL BRANCH — FURLOUGHS.

1. In addition to the appropriation reduction made in this division of this Act, the appropriations and distributions from the general fund of the state to the judicial branch for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are reduced by the following amount:

.....	\$	1,100,700
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2. In order to implement the reduction made in subsection 1, the judicial branch shall implement furloughs of judicial branch employees other than justices, judges, and magistrates or other cost reductions in a manner so as to produce cost savings equivalent to a furlough of one-half day per employee per pay period.

3. As part of implementing the reduction made in subsection 1, notwithstanding the annual salary rates authorized for justices, judges, and magistrates in 2001 Iowa Acts, chapter 190, section 1, for the fiscal year beginning July 1, 2001, those salary rates shall be reduced by applying a 5 percent reduction to the portion of annual salary attributable to the period beginning on the effective date of this Act through June 30, 2002.² Subsection 2 does not apply to justices, judges, and magistrates subject to this subsection.

4. Notwithstanding the uses listed in section 602.1304, subsection 2, paragraph "c", the judicial branch may use not more than \$1,000,000 of the moneys available to the judicial branch in the enhanced court collections fund for the fiscal year beginning July 1, 2001, to supplant the reduction made in subsection 1 and thereby decrease the application of subsections 2 and 3. Any such decrease involving employee furloughs and salary reductions shall be applied proportionately between subsections 2 and 3.

DIVISION V
LEGISLATIVE BRANCH

Sec. 22. APPROPRIATIONS REDUCTION.

1. The appropriations made from the general fund of the state in section 2.12 to the general assembly for the fiscal year beginning July 1, 2001, and ending June 30, 2002, shall be reduced by 2.6 percent.

2. In order to implement the reductions required by this section for the fiscal year beginning July 1, 2001, in addition to employee furloughs and other expense reductions, notwithstanding the annual salary rates authorized for members of the general assembly in section 2.10, the salary rates for such members shall be reduced by applying a 5 percent reduction to the portion of annual salary attributable to the period beginning on the effective date of this Act through June 30, 2002, as if the members were all paid a salary under section 2.10, subsection 4, paragraph "a".

² See chapter 1175, §13 herein

DIVISION VI
UNIFORM EXECUTIVE BRANCH APPROPRIATION REDUCTIONS

Sec. 23. EXECUTIVE BRANCH. Except for those appropriations made for the purposes specified in division I of this Act and those appropriations exempt from this section under division II of this Act, after applying the uniform reductions made pursuant to executive order number 24,³ the appropriations made from the general fund of the state to the executive branch for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are reduced by 1 percent.

Sec. 24. SALARY ADJUSTMENT FUND. The appropriation made in section 455G.3, subsection 6, paragraph "b", to the salary adjustment fund from the unassigned revenue fund administered by the Iowa comprehensive tank fund board is reduced by 4.3 percent. That appropriation shall be considered to be an appropriation made from the general fund of the state for purposes of the uniform reductions to appropriations made pursuant to this division of this Act or pursuant to any later enactment of the Seventy-ninth General Assembly, 2002 Session, making a uniform reduction to appropriations from the general fund of the state for the fiscal year beginning July 1, 2001, or pursuant to an executive order of the governor issued after the effective date of this Act.

DIVISION VII
EXECUTIVE BRANCH FURLOUGHS

Sec. 25. EXECUTIVE BRANCH. The appropriations made from the general fund of the state to the departments and establishments of the executive branch, as defined in section 8.2, including but not limited to the appropriations to the state board of regents, for purposes of state employee compensation for the fiscal year beginning July 1, 2001, and ending June 30, 2002, are reduced by the following amount:

..... \$ 11,702,872

1. The department of management shall apply the reduction made in accordance with this section in a manner so that an appropriation providing for state employee compensation is reduced in proportion to the amount that the compensation costs in that appropriation bears to the total amount of compensation costs in all appropriations from the general fund to executive branch departments and establishments.

2. In order to implement the reduction made in this section, the departments and establishments shall implement furloughs for those employees whose compensation is paid from the general fund of the state or other cost reductions, in a manner to produce cost savings equivalent to a furlough of one-half day per employee per pay period.

3. As part of implementing the reduction made in this section, notwithstanding the annual salary rates authorized for elective executive branch officials in 2000 Iowa Acts, chapter 1219, section 3, for the fiscal year beginning July 1, 2001, the salary rates for such officials shall be reduced by applying a 5 percent reduction to the portion of annual salary attributable to the period beginning on the effective date of this Act through June 30, 2002. Subsection 2 does not apply to elective executive branch officials subject to this subsection.

4. As part of implementing the reduction made in this section, notwithstanding the annual salaries established under 2001 Iowa Acts, chapter 190, section 3, for the fiscal year beginning July 1, 2001, each of those salaries shall be reduced by applying a 5 percent reduction to the portion of the salary attributable to the period beginning on the effective date of this Act through June 30, 2002. Subsection 2 does not apply to appointed executive branch officers subject to this subsection.⁴

5. The appropriations reductions made pursuant to this section are in addition to the appropriations reductions made pursuant to division VI of this Act.

³ Published in IAB, XXIV, 11, November 28, 2001, page 858

⁴ See chapter 1175, §14 herein

DIVISION VIII
EFFECTIVE DATE

Sec. 26. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 1, 2002

CHAPTER 1167

SCHOOL FINANCE — ALLOWABLE GROWTH,
AREA EDUCATION AGENCY PAYMENTS, AND STATE FOUNDATION AID
S.F. 2315

AN ACT appropriating state school foundation aid and making related changes to the state percent of growth for school budgets and to the funding for area education agencies, and providing an effective date.

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

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

1. STATE PERCENT OF GROWTH. The state percent of growth for the budget year beginning July 1, 2001, is four percent. The state percent of growth for the budget year beginning July 1, 2002, is ~~four~~ one percent.¹ 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. Section 257.35, Code 2001, is amended to read as follows:
257.35 AREA EDUCATION AGENCY PAYMENTS.

1. The department of management shall deduct the amounts calculated for special education support services, media services, and educational services for each school district from the state aid due to the district pursuant to this chapter and shall pay the amounts to the respective area education agencies on a monthly basis from September 15 through June 15 during each school year. The department of management shall notify each school district of the amount of state aid deducted for these purposes and the balance of state aid shall be paid to the district. If a district does not qualify for state aid under this chapter in an amount sufficient to cover its amount due to the area education agency as calculated by the department of management, the school district shall pay the deficiency to the area education agency from other moneys received by the district, on a quarterly basis during each school year.

2. Notwithstanding subsection 1, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for each fiscal year of the fiscal period beginning July 1, 2002, and ending June 30, 2004, shall be reduced by the department of management by seven million five hundred thousand dollars. The reduction for each area education agency shall be equal to the reduction that the agency received in the fiscal year beginning July 1, 2001.

¹ See chapter 1159, §1 herein

Sec. 3. Section 257.37, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 6. For the budget years beginning July 1, 2002, and July 1, 2003, notwithstanding the requirements of this section for determining the budgets and funding of media services and education services, an area education agency may, within the limits of the total of the funds provided for the budget years pursuant to section 257.35, expend for special education support services an amount that exceeds the payment for special education support services pursuant to section 257.35 in order to maintain the level of required special education support services in the area education agency.

Sec. 4. 2001 Iowa Acts, chapter 174, section 1, subsection 1, is amended to read as follows:
 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.

For the fiscal year beginning July 1, 2002, and ending June 30, 2003, of the \$75,000,000 to be deposited in the endowment for Iowa’s health account of the tobacco settlement trust fund under this subsection, the first² \$20,000,000 is appropriated to the department of management to pay that part of foundation aid which represents the allowable growth amounts for all school districts. An appropriation from the general fund of the state for foundation aid which is supplanted by the appropriation made in this subsection, shall be reduced by the amount of the appropriation which supplants it.

Sec. 5. STATE FOUNDATION AID APPROPRIATION.

1. Notwithstanding section 257.16, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, there is appropriated from the general fund of the state to the department of education the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For state foundation aid: \$ 1,784,090,500

If the amount appropriated in this section is less than the amount required pursuant to section 257.16, unnumbered paragraph 1, the difference shall be deducted from the payments to each school district in the same ratio that the budget enrollment of the school district for the budget year beginning July 1, 2002, bears to the total budget enrollment in the state for that budget year.

2. a. There is appropriated from the Iowa economic emergency fund created in section 8.55 to the department of management 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 supplanting an equal amount from the appropriation made from the general fund of the state for the fiscal year beginning July 1, 2002, pursuant to section 257.16, to pay that part of

² See chapter 1175, §95 herein

foundation aid which represents the allowable growth amounts for all school districts:
..... \$ 25,000,000³

b. The moneys appropriated in this subsection are declared to be appropriated for emergency expenditures as required in section 8.55, subsection 3, paragraph "a".

c. An appropriation from the general fund of the state, which is supplanted by an appropriation from the Iowa economic emergency fund made in this subsection, shall be reduced by the amount of the appropriation which supplants it.

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

Approved March 28, 2002

CHAPTER 1168

APPROPRIATIONS — ENERGY CONSERVATION PROGRAMS FUNDING

S.F. 2140

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, 2002, and ending June 30, 2003, 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 to energy weatherization projects, which target the highest energy users, and including administrative costs:

To be expended from the Exxon fund:
..... \$ 25,000

2. To the department of natural resources for the following purposes:
a. For the state energy program, from the Exxon fund:
..... \$ 25,000

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 April 4, 2002

³ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1001, §7 herein

CHAPTER 1169**ECONOMIC EMERGENCY FUNDS —
TRANSFER TO TOBACCO SETTLEMENT
AND SENIOR LIVING TRUST FUNDS***H.F. 2075*

AN ACT relating to the repayment of moneys appropriated from the endowment for Iowa's health account of the tobacco settlement trust fund and from the senior living trust fund.

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

Section 1. Section 8.55, subsection 2, Code Supplement 2001, is amended to read as follows:

2. a. The maximum balance of the fund is the amount equal to five¹ percent of the adjusted revenue estimate for the fiscal year. If the amount of moneys in the Iowa economic emergency fund is equal to the maximum balance, moneys in excess of this amount shall be transferred to the general fund.

b. Notwithstanding paragraph "a", 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, 2002, and subsequent fiscal years, 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 paragraph shall not exceed the difference between forty million dollars and the total amount transferred to the endowment for Iowa's health account pursuant to 2001 Iowa Acts, chapter 177, section 2, as amended by 2001 Iowa Acts, chapter 187, section 28, and previous fiscal years.

c. Notwithstanding paragraph "a", 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 each fiscal year and after the appropriate amount has been transferred pursuant to paragraph "b", shall not be transferred to the general fund of the state but shall be transferred to the senior living trust fund. The total amount transferred, in the aggregate, under this paragraph for all fiscal years shall not exceed thirty-five million five hundred thousand dollars.

d. Notwithstanding paragraph "a", 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 each fiscal year and after the appropriate amount² have been transferred pursuant to paragraphs "b" and "c" 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 total amount transferred, in the aggregate, under this paragraph for all fiscal years shall not exceed the difference between fifty-one million five hundred thousand dollars and the amounts transferred to the endowment for Iowa's health account to repay the amounts transferred or appropriated from the endowment for Iowa's health account in 2002 Iowa Acts, House File 2245,³ 2002 Iowa Acts, Senate File 2304,⁴ and 2002 Iowa Acts, Senate File 2315.⁵

Approved April 5, 2002

¹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1001, §25, 33 herein

² See chapter 1175, §73 herein

³ Chapter 1165 herein

⁴ Chapter 1166 herein

⁵ Chapter 1167 herein; see also 2002 Iowa Acts, Second Extraordinary Session, chapter 1001, §26, 52 herein

CHAPTER 1170

FEDERAL BLOCK GRANT APPROPRIATIONS

H.F. 2582

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, 2002, and ending September 30, 2003, 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, 2001, 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 2002-2003 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.

4. In implementing the federal substance abuse prevention and treatment block grant under 42 U.S.C., chapter 6A, subchapter XVII, and any other applicable provisions of the federal Public Health Service Act under 42 U.S.C., chapter 6A, subchapter III-A, the department shall apply the provisions of Pub. L. No. 106-310, § 3305, as codified in 42 U.S.C. § 300x-65, relating to services under such federal law being provided by religious and other nongovernmental organizations.

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, 2002, and ending September 30, 2003, the following amount:

..... \$ 3,587,827

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, 2002, and ending September 30, 2003, the following amount:

..... \$ 7,016,116

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, 2002, and ending September 30, 2003, the following amount:

..... \$ 1,934,758

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, subchapter 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 by section 8.41 to the office of the governor for the drug policy coordinator for the federal fiscal year beginning October 1, 2002, and ending September 30, 2003, the following amount:

..... \$ 6,473,528

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 by section 8.41 to the office of the governor for the drug policy coordinator for the federal fiscal year beginning October 1, 2002, and ending September 30, 2003, the following amount:

..... \$ 1,811,502

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.

3. If an enactment of the Seventy-ninth General Assembly, 2002 Session, transfers responsibility for the stop violence against women grant program to the department of justice, the appropriation made in this section shall be made to the department of justice in lieu of the office of the governor.¹

Sec. 7. LOCAL LAW ENFORCEMENT BLOCK GRANT APPROPRIATION.

1. There is appropriated from the fund created by section 8.41 to the office of the governor for the drug policy coordinator for the federal fiscal year beginning October 1, 2002, and ending September 30, 2003, the following amount:

..... \$ 341,733

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 by section 8.41 to the office of the governor for the drug policy coordinator for the federal fiscal year beginning October 1, 2002, and ending September 30, 2003, the following amount:

..... \$ 838,162

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, 2002, and ending September 30, 2003, the following amount:

..... \$ 7,001,652

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

¹ See chapter 1016 herein

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 Iowa department of economic development for the federal fiscal year beginning October 1, 2002, and ending September 30, 2003, the following amount:

..... \$ 31,843,420

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 Iowa 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 \$1,444,840 for the federal fiscal year beginning October 1, 2002, shall be used by the Iowa department of economic development for administrative expenses for the community development block grant. The total amount used for administrative expenses includes \$722,420 for the federal fiscal year beginning October 1, 2002, of funds appropriated in subsection 1 and a matching contribution from the state equal to \$722,420 from the appropriation of state funds for the community development block grant and state appropriations for related activities of the Iowa department of economic development. From the funds set aside for administrative expenses by this subsection, the Iowa 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, 2002, and ending September 30, 2003, the following amount:

..... \$ 31,126,126

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 \$2,645,721 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, 2002, and ending September 30, 2003, the following amount:

..... \$ 17,578,482

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 \$1,117,773 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, 2002, for the following programs within the department of human services:

a. Field operations:	\$ 6,685,525
.....	
b. Child and family services:	\$ 999,969
.....	
c. Local administrative costs and other local services:	\$ 709,019
.....	
d. Volunteers:	\$ 77,490
.....	
e. Community-based services:	\$ 89,111
.....	
f. MH/MR/DD/BI community service (local purchase):	\$ 7,899,595
.....	

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, 2002, and ending September 30, 2003, 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 non-performance, 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, 2002, and ending September 30, 2003, the following amount:

..... \$ 40,975,932

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, are appropriated to the department of agriculture and land stewardship for the purposes set forth in the grants, re-

ceipts, 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, 2002, and ending June 30, 2003:

1. For plant and animal disease and pest control, grant number 10025:	\$	2,147,056
2. For assistance for intrastate meat and poultry, grant number 10475:	\$	1,010,365
3. For food and drug — research grants, grant number 13103:	\$	138,000
4. For surface coal mining regulation, grant number 15250:	\$	136,780
5. For abandoned mine land reclamation, grant number 15252:	\$	1,119,850
6. For USDA, grant number 10000:	\$	37,380
7. For farmers market nutrition program, grant number 10572:	\$	739,078
8. For performance partnership grants — pesticide use, grant number 66605:	\$	899,767
9. For air quality, grant number 66606:	\$	103,574
10. For marketing improvement, grant number 10156:	\$	55,000

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For vocational rehabilitation, grant number 93802:	\$	396,485
2. For assistive technology information network, grant number 84224:	\$	2,000
3. For rehabilitation services — basic support, grant number 84126:	\$	5,612,555
4. For rehabilitation training, grant number 84265:	\$	20,094
5. For independent living project, grant number 84169:	\$	59,516
6. For older blind, grant number 84177:	\$	260,599
7. For supported employment, grant number 84187:	\$	68,254
8. For field research, grant number 84133:	\$	144,827

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For housing and urban development (HUD) discrimination complaints, grant number 14401:	\$	187,800
.....		
2. For job discrimination — special projects, grant number 30002:	\$	957,075
.....		

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For the Stafford loan program, grant number 84032:	\$	26,884,185
.....		
2. For federal improvement of education (FIE), grant number 84215:	\$	405,400
.....		
3. For LEAP, grant number 84069:	\$	325,577
.....		

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For criminal alien assistance, grant number 16572:	\$	500,000
.....		
2. For incarcerated youth, grant number 84331:	\$	140,000
.....		

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For historic preservation grants-in-aid, grant number 15904:	\$	555,917
.....		
2. For national endowment for the arts (NEA) partner, grant number 45025:	\$	462,700
.....		

3. For library and museum grants, grant number 45312:	\$	30,059
4. For NEA leaders, grant number 45026:	\$	25,000

Sec. 27. IOWA 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, 2002, and ending June 30, 2003, are appropriated to the Iowa 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, 2002, and ending June 30, 2003:

1. For department of agriculture, grant number 10000:	\$	120,000
2. For federal Affordable Housing Act, grant number 14239:	\$	11,587,000
3. For federal Community Service Act funds, grant number 94003:	\$	2,390,520
4. For national corporation for community service, grant number 94006:	\$	175,000
5. For shelter grants, grant number 14231:	\$	1,399,000

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For school breakfast program, grant number 10553:	\$	9,300,000
2. For school lunch program, grant number 10555:	\$	48,321,600
3. For special milk program for children, grant number 10556:	\$	150,000
4. For child care food program, grant number 10558:	\$	15,819,573
5. For summer food service for children, grant number 10559:	\$	750,000
6. For administration expenses for child nutrition, grant number 10560:	\$	1,364,169
7. For public telecommunication facilities, grant number 11550:	\$	250,000
8. For vocational rehabilitation — state supplementary assistance, grant number 13625:	\$	599,175
9. For vocational rehabilitation — FICA, grant number 13802:	\$	14,311,912
10. For nutrition education and training, grant number 10574:	\$	236,512
11. For mine health and safety, grant number 17600:	\$	56,000
12. For veterans education, grant number 64111:	\$	246,921
13. For adult education, grant number 84002:	\$	4,176,686

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:	\$	61,732,442
.....		
16. For migrant education, grant number 84011:	\$	1,582,236
.....		
17. For education for neglected — delinquent children, grant number 84013:	\$	388,321
.....		
18. For handicapped education, grant number 84025:	\$	96,138
.....		
19. For handicapped — state grants, grant number 84027:	\$	75,000,000
.....		
20. For technology literacy challenge, grant number 84318:	\$	2,612,528
.....		
21. For library services and technology, grant number 45310:	\$	1,735,160
.....		
22. For vocational education — state grants, grant number 84048:	\$	12,385,507
.....		
23. For rehabilitation services — basic support, grant number 84126:	\$	22,623,668
.....		
24. For rehabilitation training, grant number 84129:	\$	68,161
.....		
25. For federal Elementary and Secondary Education Act (ESEA) Title II, grant number 84281:	\$	2,859,074
.....		
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:	\$	4,003,283
.....		
29. For education of handicapped — infants and toddlers, grant number 84181:	\$	3,315,713
.....		
30. For Byrd scholarship program, grant number 84185:	\$	411,000
.....		
31. For drug-free schools/communities, grant number 84186:	\$	3,419,873
.....		
32. For supported employment, grant number 84187:	\$	291,740
.....		
33. For homeless youth and children, grant number 84196:	\$	284,029
.....		
34. For even start, grant number 84213:	\$	1,160,000
.....		
35. For Goals 2000, grant number 84276:	\$	253,472
.....		
36. For AIDS prevention project, grant number 93938:	\$	243,000
.....		
37. For headstart collaborative grant, grant number 93600:	\$	125,000
.....		
38. For infrastructure under the Iowa demonstration construction grant program and character education, grant number 84215:	\$	50,000,000
.....		
39. For teacher preparation education, grant number 84243:	\$	1,252,884
.....		

40. For learn and serve America, grant number 94004:	\$	181,634
41. For special education technical assistance grants, grant number 84326:	\$	144,472
42. For federal Elementary and Secondary Education Act (ESEA) Title I, accountability, grant number 84348:	\$	1,465,942
43. For school repair and renovation, grant number 84352:	\$	4,919,363
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 system change, grant number 84989:	\$	499,261
48. For refugee schools, grant number 93576:	\$	250,000
49. For United States department of education task orders, grant number 84999:	\$	40,000
50. 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For nutrition program for elderly, grant number 10570:	\$	2,125,789
2. For senior community service employment program, grant number 17235:	\$	1,123,021
3. For preventive health, grant number 93043:	\$	232,560
4. For supportive services, grant number 93044:	\$	4,490,995
5. For nutrition, grant number 93045:	\$	6,591,658
6. For health care financing administration, grant number 93779:	\$	229,194
7. For elder abuse, grant number 93041:	\$	61,508
8. For ombudsman program, grant number 93042:	\$	48,252
9. For federal Older Americans Act of 1965, Title IV, aging programs, grant number 93048:	\$	810,572
10. For caregiver support, grant number 93052:	\$	1,322,144

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

- 1. For bullet proof vest partnership program, grant number 16607:
 \$ 45,000
- 2. For marijuana control, grant number 16580:
 \$ 998,700
- 3. For rural domestic violence and child victimization assistance, grant number 16589:
 \$ 350,000

If an enactment of the Seventy-ninth General Assembly, 2002 Session, transfers responsibility for the stop violence against women grant program to the department of justice, the appropriation made in this subsection shall be made to the department of justice in lieu of the office of the governor.²

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

- 1. For juvenile justice and delinquency prevention, grant number 16540:
 \$ 864,000
- 2. For weatherization assistance, grant number 81042:
 \$ 5,051,761
- 3. For client assistance, grant number 84161:
 \$ 120,724
- 4. For federal Juvenile Justice and Delinquency Prevention Act of 1974, § 505, Title V, delinquency prevention, grant number 16548:
 \$ 270,000
- 5. For juvenile accountability incentive block grant, grant number 16523:
 \$ 2,373,600

² See chapter 1016 herein

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, 2002, and ending June 30, 2003, 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 appropriated to the department of human services for the fiscal year beginning July 1, 2002, and ending June 30, 2003:

1. For food stamps, grant number 10551:	\$	2,025,000
2. For administration expense for food stamps, grant number 10561:	\$	17,449,684
3. For commodity support food program, grant number 10565:	\$	309,557
4. For temporary emergency food assistance, grant number 10568:	\$	332,440
5. For federal Social Security Act, Title XVIII, Medicare inspections, grant number 13773:	\$	100,000
6. For foster grandparents program, grant number 72001:	\$	197,490
7. For mental health training, grant number 93244:	\$	706,365
8. For child support enforcement, grant number 93563:	\$	35,411,069
9. For refugee and entrant assistance, grant number 93566:	\$	3,272,498
10. For developmental disabilities basic support, grant number 93630:	\$	834,997
11. For children's justice, grant number 93643:	\$	203,995
12. For child welfare services, grant number 93645:	\$	3,222,880
13. For federal Social Security Act, Title IV-E, foster care, grant number 93658:	\$	25,862,477
14. For federal Social Security Act, Title IV-E, adoption assistance, grant number 93659:	\$	24,767,321
15. For child abuse challenge, grant number 93672:	\$	227,725
16. For federal Social Security Act, 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:	\$	1,259,497,463
19. For empowerment, grant number 93585:	\$	1,649,661
20. For promoting safe and stable families, grant number 93556:	\$	1,843,340
21. For welfare reform research evaluation, grant number 93595:	\$	10,000
22. For welfare reform, grant number 93239:	\$	150,000
23. For state children's health insurance program, grant number 93767:	\$	44,014,767
24. For adoption opportunities, grant number 93652:	\$	351,780

25. For mental health and mental retardation (MH/MR) federal crisis nurseries, grant number 93656:	\$	85,378
26. For family support payments, grant number 93560:	\$	408,316
27. For child abuse and neglect, grant number 93669:	\$	279,722

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For assistance for intrastate meat and poultry, grant number 10475:	\$	19,182
2. For food and drug research grants, grant number 93103:	\$	22,519
3. For Title XVIII Medicare inspections, grant number 13773:	\$	2,187,712
4. For state Medicaid fraud control, grant number 93775:	\$	575,907

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For United States department of health and human services, grant number 13000:	\$	350,000
2. For United States department of justice, grant number 16000:	\$	148,583

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For United States department of justice, grant number 16000:	\$	5,150,000
2. For United States department of health and human services, grant number 13000:	\$	1,000,000

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, 2002, and ending June 30, 2003, 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.

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For forestry incentive program, grant number 10064:	\$	345,000
2. For cooperative forestry assistance, grant number 10664:	\$	595,576
3. For fish restoration, grant number 15605:	\$	6,670,323
4. For wildlife restoration, grant number 15611:	\$	2,850,785
5. For acquisition, development, and planning, grant number 15916:	\$	300,000
6. For recreational boating safety financial assistance, grant number 20005:	\$	1,065,000
7. For consolidated environmental programs support, grant number 66600:	\$	11,882,841
8. For energy conservation, grant number 81041:	\$	2,220,077
9. For federal Clean Water Act revolving loan fund, grant number 66458:	\$	3,167,289
10. For disaster assistance, grant number 83516:	\$	254,001
11. For United States geological survey, soil conservation service, mapping projects, grant number 15808:	\$	175,750
12. For rare and endangered species, grant number 15612:	\$	67,000
13. For highway construction, grant number 20205:	\$	329,945
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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For public assistance grants, grant number 83544:	\$	1,262,786
.....		
2. For military construction, grant number 12400:	\$	150,000
.....		
3. For hazardous materials grants, grant number 83548:	\$	6,406,303
.....		
4. For emergency management performance grants, grant number 83552:	\$	1,722,236
.....		
5. For flood mitigation assistance, grant number 83536:	\$	154,930
.....		
6. For domestic preparedness equipment support, grant number 16007:	\$	574,554
.....		
7. For hazardous materials transport, grant number 20703:	\$	311,625
.....		
8. For operations and maintenance, grant number 12401:	\$	20,156,233
.....		
9. For public defense operations projects, grant number 12402:	\$	24,308,425
.....		

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For women, infants, and children, grant number 10557:	\$	34,228,664
.....		
2. For health services — grants and contracts, grant number 13226:	\$	250,000
.....		
3. For radon control, grant number 66032:	\$	566,536
.....		
4. For toxic substance compliance monitoring, grant number 66701:	\$	202,358
.....		
5. For drug-free schools — communities, grant number 84186:	\$	741,386
.....		
6. For hazardous waste, grant number 66802:	\$	167,928
.....		

7. For regional delivery systems, grant number 93110:	\$	509,761
8. For tuberculosis control — elimination, grant number 93116:	\$	551,070
9. For physician education, grant number 93161:	\$	304,560
10. For childhood lead abatement, grant number 93197:	\$	696,158
11. For family planning projects, grant number 93217:	\$	978,405
12. For immunization program, grant number 93268:	\$	2,072,290
13. For investigation and technical assistance, grant number 93283:	\$	3,306,852
14. For rural health, grant number 93913:	\$	79,950
15. For HIV cares grants, grant number 93917:	\$	1,584,910
16. For preventive health services, grant number 93977:	\$	771,372
17. For AIDS prevention project, grant number 93940:	\$	1,549,025
18. For breast and cervical cancer, grant number 93919:	\$	2,486,470
19. For health care financing research, grant number 93779:	\$	724,310
20. For federal emergency medical services for children, grant number 93127:	\$	98,965
21. For refugee and entrant assistance, grant number 93576:	\$	69,474
22. For federal environmental protection agency lead certification program, grant number 66707:	\$	535,764
23. For loan repayment, grant number 93165:	\$	120,000
24. For primary care services, grant number 93130:	\$	335,366
25. For diabetes, grant number 93988:	\$	297,902
26. For abstinence education, grant number 93235:	\$	455,703
27. For AIDS prevention project, grant number 93944:	\$	187,230
28. For data information systems, grant number 93000:	\$	953,043
29. For traumatic brain injury, grant number 93234:	\$	200,000
30. For treatment outcome performance protocol, grant number 93238:	\$	19,000
31. For United States department of justice, grant number 16000:	\$	245,048
32. For consolidated knowledge development and application, grant number 93230:	\$	865,918
33. For infants and families with disabilities, grant number 84181:	\$	12,250

34. For state and rural health, grant number 93241:	\$	392,927
35. For asthma, grant number 93293:	\$	199,227
36. For risk surveillance, grant number 93945:	\$	93,095
37. For minority health programs, grant number 93137:	\$	20,689
38. For promoting safe and stable family programs, grant number 93556:	\$	548,250
39. For refugee and entrant assistance, grant number 93566:	\$	182,750

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For department of housing and urban development, grant number 14000:	\$	15,768
2. For department of justice, grant number 16000:	\$	611,937
3. For marijuana control, grant number 16580:	\$	97,141
4. For state and community highway safety, grant number 20600:	\$	3,569,062
5. For narcotics control, grant number 16502:	\$	1,133,963

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

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:	\$	9,000
4. For school lunch program, grant number 10555:	\$	198,920
5. For maternal and child health, grant number 93110:	\$	160,861
6. For cancer treatment research, grant number 93395:	\$	27,583
7. For general research, grant number 83500:	\$	268,184,236
8. For handicapped — state grants, grant number 84027:	\$	437,891
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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

For flood control, grant number 90000:
 \$ 350,000

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For airport improvement program — federal aviation administration, grant number 20106:
 \$ 5,000

2. For highway research, plan and construction, grant number 20205:
 \$ 247,575,000

3. For motor carrier safety assistance, grant number 20217:
 \$ 50,000

4. For local rail service assistance, grant number 20308:	\$	50,000
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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003:

1. For federal 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:	\$	176,277
4. For labor certification, grant number 17202:	\$	49,000
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:	\$	2,313,087
8. For disabled veterans outreach, grant number 17801:	\$	180,000
9. For local veterans employment representation, grant number 17804:	\$	300,000
10. For unemployment insurance trust receipts, grant number 17998:	\$	184,010,000
11. For the federal Job Training Partnership Act, grant number 17250:	\$	565,948
12. For food stamps, grant number 10561:	\$	549,000
13. For labor certification, grant number 17203:	\$	60,100
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:	\$	1,340,840
16. For the federal Workforce Investment Act, grant number 17255:	\$	11,581,919
17. For Title IV, grant number 93668:	\$	50,000

Approved April 12, 2002

CHAPTER 1171**APPROPRIATIONS — MISCELLANEOUS PROVISIONS,
REDUCTIONS, TRANSFERS, AND OTHER MATTERS***S.F. 2326*

AN ACT making, reducing, and transferring appropriations, and providing for other properly related matters and including effective dates.

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

DIVISION I
ADMINISTRATION AND REGULATION

**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, 2002, and ending June 30, 2003, 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:

.....	\$	1,103,243
.....	FTEs	105.47

*The auditor of state may retain additional full-time equivalent positions as is reasonable and necessary to perform governmental subdivision audits which are reimbursable pursuant 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, 2002, and ending June 30, 2003, 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:

.....	\$	420,000
.....	FTEs	6.00*

**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, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, for the purposes designated:*

1. ALCOHOLIC BEVERAGES DIVISION

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

.....	\$	1,803,044
.....	FTEs	33.00

2. BANKING DIVISION

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

.....	\$	6,036,125
.....	FTEs	72.00

* Item veto; see message at end of the Act

3. CREDIT UNION DIVISION

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

.....	\$	1,282,995
.....	FTEs	19.00

4. INSURANCE DIVISION

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

.....	\$	3,770,164
.....	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.

5. PROFESSIONAL LICENSING AND REGULATION DIVISION

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

.....	\$	748,342
.....	FTEs	11.00

b. Notwithstanding the provisions of section 543B.14 to the contrary, all fees and charges collected by the real estate commission under chapter 543B shall be paid into the general fund of the state, except that for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the equivalent of thirty dollars per year of the fees for each real estate salesperson's license, plus the equivalent of thirty dollars per year of the fees for each broker's license shall be paid into the Iowa real estate education fund created in section 543B.54.

6. UTILITIES DIVISION

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

.....	\$	6,104,810
.....	FTEs	79.00

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.

The utilities division shall assess the office of consumer advocate within the department of justice a pro rata share of the operating expenses of the utilities division. 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. 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.

7. ACCOUNTABLE GOVERNMENT REPORT

Each division of the department of commerce shall submit a report to the cochairpersons and ranking members of the joint appropriations subcommittee on administration and regulation on or before January 13, 2003, which encompasses the reporting requirements provided in Code chapter 8E, including development of an agency strategic plan, performance measures, performance targets based on performance data, performance data, and data sources used to evaluate the agency performance, and explanations of the plan's provisions.*

**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, 2002, and ending June 30, 2003, 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 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, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:*

1. ADMINISTRATION AND PROPERTY MANAGEMENT

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

.....	\$	5,389,881
.....	FTEs	152.60

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:

.....	\$	241,347
.....	FTEs	5.00

3. RENTAL SPACE

For payment of lease or rental costs of buildings and office space as provided in section 18.12, subsection 9, notwithstanding section 18.16:

.....	\$	865,818
-------	----	---------

The department shall prepare a summary of lease and rental agreements entered into by the department with information concerning the location of leased property, the funding source for each lease, and the cost of the lease. The summary shall be submitted to the general assembly by January 13, 2003.

4. UTILITY COSTS

For payment of utility costs and for not more than the following full-time equivalent position:

.....	\$	1,857,970
.....	FTEs	1.00

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, 2003.

*5. The department of general services shall identify all positions throughout state government that have job responsibilities that are duplicative of the same or similar job functions that are performed by similar positions in the department of general services. The positions throughout state government that are duplicative of positions in the department of general services will be identified by department, position title, and position pay grade. The department of general services shall also determine if the department can perform the functions of the duplicated position. The department shall submit a report, with findings, conclusions, and supporting data, to the oversight committee of the general assembly by September 1, 2002.**

* Item veto; see message at end of the Act

**Sec. 6. REVOLVING FUNDS. There is appropriated from the designated revolving funds to the department of general services for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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:

.....	\$	1,118,960
.....	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, 2002, and ending June 30, 2003, which are legally payable from this fund.

3. STATE FLEET ADMINISTRATOR

a. From the state fleet administrator revolving fund established by section 18.119 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	881,501
.....	FTEs	16.75

b. The state fleet administrator shall conduct a study concerning the utilization of state-owned vehicles by state government that are under the control of the administrator pursuant to section 18.114. As part of the study, the state fleet administrator shall investigate the cost and benefits of entering into an agreement with an entity that leases or rents vehicles for the purpose of providing vehicles from that source for use by state government. The study shall also examine what revenue may be generated as a result of the sale of state-owned vehicles. The state fleet administrator shall submit a report to the general assembly by January 13, 2003, concerning the progress of the administrator in meeting the goal of reducing the number of state-owned vehicles. The report shall include all relevant data concerning the study, any actions taken to reduce the number of state-owned vehicles, and any proposed legislative changes needed to implement the goal of reducing the number of state-owned vehicles.

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, 2002, and ending June 30, 2003, 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:

.....	\$	1,328,025
.....	FTEs	29.55

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, 2002, and ending June 30, 2003, which are legally payable from this fund.**

**Sec. 7. 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*

* Item veto; see message at end of the Act

year beginning July 1, 2002, and ending June 30, 2003, 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:

.....	\$	1,299,177
.....	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:

.....	\$	102,780
.....	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:

.....	\$	135,085
.....	FTEs	3.00

4. NATIONAL GOVERNORS ASSOCIATION

For payment of Iowa's membership in the national governors association:

.....	\$	65,842
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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:

.....	\$	213,604
.....	FTEs	2.00*

*Sec. 8. DEPARTMENT OF INSPECTIONS AND APPEALS.

1. If Senate File 2325, or similar legislation providing for the reorganization of the duties of the department of inspections and appeals is enacted into law by the 2002 session of the general assembly, there is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, for the purposes designated:

a. Administration division

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

.....	\$	730,165
.....	FTEs	24.00

b. Administrative hearings division

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

.....	\$	482,863
.....	FTEs	30.00

c. Investigations division

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

.....	\$	1,407,553
.....	FTEs	46.00

d. Health facilities division

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

.....	\$	2,327,714
.....	FTEs	108.00

e. Inspections division

* Item veto; see message at end of the Act

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

.....	\$	776,141
.....	FTEs	13.00

f. Employment appeal board

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

.....	\$	34,941
.....	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 paragraph, additional amounts as are directly billable to the labor services division under this paragraph "f" and to retain the additional full-time equivalent positions as needed to conduct hearings required pursuant to chapter 91C.

g. Child advocacy board

(1) For foster care review, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	789,523
.....	FTEs	19.00

The department of human services, in coordination with the child advocacy 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 child advocacy board, administrative review costs.

(2) For the court appointed special advocate program, including salaries, support, maintenance, and for not more than the following full-time equivalent positions:

.....	\$	960,000
.....	FTEs	24.00

It is the intent of the general assembly that the court appointed special advocate program investigate and develop opportunities for expanding fund-raising for the program.

2. If Senate File 2325, or similar legislation providing for the reorganization of the duties of the department of inspections and appeals is not enacted into law by the 2002 session of the general assembly, there is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, for the purposes designated:

a. Administration division

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

.....	\$	533,734
.....	FTEs	21.00

b. Audits division

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

.....	\$	452,145
.....	FTEs	10.00

c. Administrative hearings division

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

.....	\$	482,863
.....	FTEs	30.00

d. Investigations division

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

.....	\$	1,030,813
.....	FTEs	40.00

e. Health facilities division

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

.....	\$	2,327,714
.....	FTEs	108.00

f. Inspections division

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

.....	\$	897,167
.....	FTEs	17.00

g. Employment appeal board

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

.....	\$	34,941
.....	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 paragraph, additional amounts as are directly billable to the labor services division under this paragraph "g" and to retain the additional full-time equivalent positions as needed to conduct hearings required pursuant to chapter 91C.

h. State foster care review board

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

.....	\$	789,523
.....	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. 9. RACING AND GAMING COMMISSION.**

1. 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, 2002, and ending June 30, 2003, 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:

.....	\$	2,083,762
.....	FTEs	24.78

Of the funds appropriated in this subsection, \$85,576 shall be used to conduct an extended harness racing season.

2. 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, 2002, and ending June 30, 2003, 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:

.....	\$	1,602,611
.....	FTEs	30.97

3. ACCOUNTABLE GOVERNMENT REPORT

The racing and gaming commission shall submit a report to the cochairpersons and ranking

* Item veto; see message at end of the Act

members of the joint appropriations subcommittee on administration and regulation on or before January 13, 2003, which encompasses the reporting requirements provided in Code chapter 8E, including development of an agency strategic plan, performance measures, performance targets based on performance data, performance data, and data sources used to evaluate the agency performance, and explanations of the plan's provisions.*

*Sec. 10. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:
..... \$ 1,197,552*

*Sec. 11. 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, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE — STATEWIDE PROPERTY TAX ADMINISTRATION

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

..... \$ 2,147,276
..... FTEs 33.00

2. ENTERPRISE RESOURCE PLANNING

If funding is provided for the redesign of the enterprise resource planning budget system for the fiscal year beginning July 1, 2002, then there is appropriated from the general fund of the state to the department of management 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 salaries, support, maintenance, and miscellaneous purposes for administration of the enterprise resource planning system, and for not more than the following full-time equivalent position:

..... \$ 60,000
..... FTEs 1.00

3. STATE GOVERNMENT ADMINISTRATIVE SERVICES REORGANIZATION

The department of management, in consultation with other administrative departments, shall continue to study and pursue the goal of providing for the reorganization of state government in order to facilitate the efficient and effective delivery of state government services. The reorganization study shall concentrate on establishing a new state organization that will increase the efficiency of managing the major resources of state government, including personnel, financial, physical, and information assets, in order to provide better service at less cost to all departments of state government and the citizens of Iowa. As part of this study, the department shall identify and examine areas where duplicative services are performed by state government which may be more efficiently accomplished by a reorganization and redesign of state government. In addition, as part of this reorganization study, support services provided to state agencies should be reoriented to continuously improve service and lower costs through a strong customer focus and entrepreneurial management. The department of management shall submit a report, including its findings, conclusions, and specific recommendations for legislative change, to the general assembly by December 2, 2002.*

*Sec. 12. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

* Item veto; see message at end of the Act

For salaries, support, maintenance, and miscellaneous purposes:
 \$ 56,000*

*Sec. 13. 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, 2002, and ending June 30, 2003, 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. For salaries, support, maintenance, and miscellaneous purposes for the director's staff, research, communications and workforce planning services, data processing, financial services, 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:
 \$ 3,807,636
 FTEs 86.00

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.

2. The department of personnel shall identify all positions throughout state government that have job responsibilities that are duplicative of the same or similar job functions that are performed by similar positions in the department of personnel. The positions throughout state government that are duplicative of positions in the department of personnel will be identified by department, position title, and position pay grade. The department of personnel shall also determine if the department can perform the functions of the duplicated position. The department shall submit a report, with findings, conclusions, and supporting data, to the oversight committee of the general assembly by September 1, 2002.*

*Sec. 14. 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, 2002, and ending June 30, 2003, 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

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. 15. IPERS. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel 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 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:

..... \$ 8,062,203
 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.*

* Item veto; see message at end of the Act

**Sec. 16. IPERS — DEFERRED RETIREMENT OPTION PROGRAM AND TERMINATED VESTED MEMBER STUDIES. There is appropriated from the Iowa public employees' retirement system fund to the Iowa public employees' retirement system division for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:*

1. If 2002 Iowa Acts, House File 2532, is enacted and directs the IPERS division to study the implementation of a cost-neutral deferred retirement option plan, for expenses related to the study proposal:

..... \$ 95,000

2. If 2002 Iowa Acts, House File 2532, is enacted and directs the IPERS division to study the implementation of a new option for terminated vested members, for expenses related to the study proposal:

*..... \$ 40,000**

**Sec. 17. PRIMARY ROAD FUND APPROPRIATION. There is appropriated from the primary road fund to the department of personnel 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 purposes designated:*

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

*..... \$ 423,539**

**Sec. 18. 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, 2002, and ending June 30, 2003, 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:

*..... \$ 69,237**

**Sec. 19. STATE WORKERS' COMPENSATION CLAIMS. 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. 20. 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, 2002, and ending June 30, 2003, 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 subsection 1:*

..... FTEs 443.01

1. COMPLIANCE — INTERNAL RESOURCES MANAGEMENT — STATE FINANCIAL MANAGEMENT — STATEWIDE PROPERTY TAX ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes:

..... \$ 25,338,458

Of the funds appropriated pursuant to this subsection, \$400,000 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.

The director of revenue and finance shall prepare and issue a state appraisal manual and the

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

revisions to the state appraisal manual as provided in section 421.17, subsection 18, without cost to a city or county.

2. COLLECTION COSTS AND FEES

For payment of collection costs and fees pursuant to section 422.26:

..... \$ 28,800*

*Sec. 21. LOTTERY.

1. APPROPRIATION. There is appropriated from the lottery fund to the department of revenue and finance 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 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:

..... \$ 8,688,714
..... FTEs 117.00

2. ACCOUNTABLE GOVERNMENT REPORT. The lottery shall submit a report to the co-chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation on or before January 13, 2003, which encompasses the reporting requirements provided in Code chapter 8E, including development of an agency strategic plan, performance measures, performance targets based on performance data, performance data, and data sources used to evaluate the agency performance, and explanations of the plan's provisions. In submitting the report required by this subsection, the lottery is not required to disclose any proprietary or otherwise confidential information which is considered a confidential record pursuant to section 22.7.

3. VIDEO LOTTERY. It is the intent of the general assembly that the lottery should investigate whether the deployment of vending machines with video screens would enhance the lottery's ability to perform its statutory duties and if, in the business judgment of the lottery commissioner and the lottery board, it would do so, that the lottery is authorized to establish a plan to implement the deployment of pull-tab vending machines with video monitors consistent with the requirements of this subsection. At a minimum, the deployment plan shall include provisions for restricting access to these machines by minors, including but not limited to requirements relating to the location of these machines. Prior to implementing the deployment plan as described in this subsection, the lottery shall notify the legislative oversight committee and shall submit a report to the committee describing the deployment plan, including measures the lottery will implement to restrict access to the machines by minors.*

*Sec. 22. 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, 2002, and ending June 30, 2003, 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:

..... \$ 1,084,112*

*Sec. 23. 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, 2002, and ending June 30, 2003, 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:

..... \$ 696,029
..... 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.

* Item veto; see message at end of the Act

2. BUSINESS SERVICES

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

.....	\$	1,433,235
.....	FTEs	32.00*

Sec. 24. 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, 2002, and ending June 30, 2003, 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. 25. 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, 2002, and ending June 30, 2003, 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:

.....	\$	803,221
.....	FTEs	25.80

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

If 2002 Iowa Acts, House File 681, is enacted and provides for the pledging of collateral in relation to the deposit of uninsured public funds, then the treasurer of state is authorized not more than the following additional full-time equivalent positions for the purposes provided for in that Act:

.....	FTEs	2.00
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The treasurer of state may expend additional funds for the purposes as provided in this subsection if those additional expenditures are actual expenses as provided in 2002 Iowa Acts, House File 681, and the expenses are fully reimbursable.*

*Sec. 26. 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, 2002, and ending June 30, 2003, 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:

.....	\$	3,049,845
.....	FTEs	125.00

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 department of information technology shall identify all positions throughout state government that have job responsibilities that are duplicative of the same or similar job functions that are performed by similar positions in the department of information technology. The positions throughout state government that are duplicative of positions in the department of information technology will be identified by department, position title, and position pay grade. The department of information technology shall also determine if the department can perform the functions of the duplicated position. The department shall submit a report, with findings, conclusions, and supporting data, to the oversight committee of the general assembly by September 1, 2002.

* Item veto; see message at end of the Act

3. The information technology department shall submit a report to the general assembly by January 13, 2003, providing information concerning the funding of the operation of the department, to include information concerning the receipt and use of fees and other revenues by the department, the method of determining fees to be charged, and information comparing fees charged by the department with comparable private sector rates.

4. It is the intent of the general assembly that all agencies comply with the requirements established in section 304.13A relating to utilization of the electronic repository developed for the purpose of providing public access to agency publications. To ensure compliance with the requirements, the department of management, the information technology department, and the state librarian shall coordinate the development of a process to maximize and monitor the extent to which the number of printed copies of agency publications is reduced, and to realize monetary savings through the reduction. The process shall include a policy for distribution of written copies of publications to members of the general assembly on a request-only basis and weekly notification of a new publication posting on the repository by the state librarian to the secretary of state, secretary of the senate, and chief clerk of the house of representatives, who in turn shall notify members of the general assembly of publication availability. The process shall also include the electronic submission of a report by November 1, annually, to the legislative fiscal bureau and legislative fiscal committee detailing the number of written copies of agency publications produced in the preceding two fiscal years, and indicating the extent to which a reduction may be observed.*

**Sec. 27. FUNDING FOR IOWACCESS.*

1. Notwithstanding section 321A.3, subsection 1, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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 IowAccess 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 IowAccess shall be deposited in the IowAccess revolving fund created in section 14B.206 and shall be used only for the support of IowAccess projects.*

**Sec. 28. Section 7D.33, subsection 2, Code 2001, is amended by adding the following new paragraph:*

NEW PARAGRAPH. e. The method of promoting the suggestion program in the broadest possible manner to state employees.*

**Sec. 29. Section 7D.33, subsection 3, paragraph a, Code 2001, is amended to read as follows:*

a. When a suggestion is implemented and results in a direct cost reduction within state government, the suggester shall be awarded ten percent of the first year's net savings, not exceeding ~~two thousand five hundred~~ twenty-five thousand dollars ~~or, and~~ a certificate. A cash award shall not be awarded for a suggestion which saves less than one hundred dollars during the first year of implementation. The department head shall approve all awards and determine the amount to be awarded. Appeals of award amounts shall be submitted to the director of the department of management whose decision is final.*

**Sec. 30. Section 476.53, Code Supplement 2001, is amended by adding the following new subsection:*

NEW SUBSECTION. 4. The utilities board and the consumer advocate may employ additional temporary staff, or may contract for professional services with persons who are not state employees, as the board and the consumer advocate deem necessary to perform required func-

* Item veto; see message at end of the Act

tions as provided in this section, including but not limited to, review of power purchase contracts, review of emission plans and budgets, and review of ratemaking principles proposed for construction or lease of a new generating facility. Beginning July 1, 2002, there is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board and the consumer advocate to hire additional staff and contract for services under this section. The costs of the additional staff and services shall be assessed to the utilities pursuant to the procedure in section 476.10 and section 475A.6.*

*Sec. 31. Section 505.7, subsection 4, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

4. Except as otherwise provided in subsection 6, the insurance division may expend additional funds if those additional expenditures are actual expenses which exceed the funds budgeted for statutory duties of the division and directly result from the statutory duties of the division. The amounts necessary to fund the excess division expenses shall be collected from additional fees and other moneys collected by the division. The division shall notify in writing the legislative fiscal bureau and the department of management when hiring additional personnel. The written notification shall include documentation that any additional expenditure related to such hiring will be totally reimbursed to the general fund, and shall also include the division's justification for hiring such personnel. The division must obtain the approval of the department of management only if the number of additional personnel to be hired exceeds the number of full-time equivalent positions authorized by the general assembly.*

*Sec. 32. Section 546.10, subsection 3, Code Supplement 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding subsection 5, eighty-five percent of the funds received annually resulting from an increase in licensing fees approved and implemented on or after July 1, 2002, by a licensing board or commission listed in subsection 1, is appropriated to the professional licensing and regulation division to be allocated to the board or commission for the fiscal year beginning July 1, 2002, and succeeding fiscal years, for purposes related to the duties of the board or commission, 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 available to the professional licensing division on a monthly basis during each fiscal year.*

Sec. 33. 2001 Iowa Acts, First Extraordinary Session, chapter 5, section 1, is repealed.

DIVISION II
AGRICULTURE AND NATURAL RESOURCES
DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

*Sec. 34. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the department, including its divisions, for administration, regulations, and programs, for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	16,840,123
.....	FTEs	440.13*

SPECIAL APPROPRIATIONS
DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

*Sec. 35. RIVER AUTHORITIES. There is appropriated from the general fund of the state

* Item veto; see message at end of the Act

to the department of agriculture and land stewardship 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 purposes designated:

For purposes of supporting the department for membership in the state interagency Missouri river authority, created in 2002 Iowa Acts, Senate File 2051, in the Missouri river basin association:

..... \$ 10,000*

*Sec. 36. FEED GRAIN PROJECT. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of administering a pilot process verification program for feed grains. The program shall be administered in conjunction with the Iowa corn growers association:

..... \$ 20,000*

SPECIAL APPROPRIATIONS
ANIMAL HEALTH AND INDUSTRY

*Sec. 37. HORSE AND DOG RACING. There is appropriated from the moneys available under section 99D.13 to the administrative division of the department of agriculture and land stewardship 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 purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for the administration of section 99D.22:

..... \$ 293,441*

*Sec. 38. REGULATORY DIVISION DAIRY PRODUCTS CONTROL BUREAU.

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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the operations of the dairy products control bureau within the department's regulatory division, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 626,646

2. If House File 2524 is enacted by the Seventy-ninth General Assembly, 2002 Session, the amount appropriated in subsection 1 shall be increased by \$38,000. The increased amount shall be used to fill a vacant position in the dairy products control bureau.*

DEPARTMENT OF NATURAL RESOURCES
GENERAL APPROPRIATIONS

*Sec. 39. GENERAL DEPARTMENT APPROPRIATION.

1. There is appropriated from the general fund of the state to the department of natural resources 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 purposes designated:

For purposes of supporting the department, including its divisions, for administration, regulations, and programs, for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 15,905,231

..... FTEs 1,063.12

2. The air quality bureau may expend up to five thousand dollars for purposes of supporting public education programs for controlled burning of demolition sites and the proper disposal of waste materials from demolition sites.

* Item veto; see message at end of the Act

3. If Senate File 2293 or House File 2468 is enacted by the Seventy-ninth General Assembly, 2002 Session, the number of full-time equivalent positions allocated under this section shall be increased by 12.00 full-time equivalent positions.

4. Of the amount appropriated in this subsection, \$6,083,599 shall be used for the parks and preserves division for salaries, support, maintenance, and miscellaneous purposes.*

**Sec. 40. 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, 2002, and ending June 30, 2003, 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:

..... \$ 28,044,786

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.*

RELATED TRANSFERS AND APPROPRIATIONS
DEPARTMENT OF NATURAL RESOURCES

**Sec. 41. SNOWMOBILE FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 2002, 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, 2002, and ending June 30, 2003, 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*

**Sec. 42. VESSEL FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 2002, 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, 2002, and ending June 30, 2003, 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.*

SPECIAL APPROPRIATIONS
DEPARTMENT OF NATURAL RESOURCES

**Sec. 43. 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*

* Item veto; see message at end of the Act

the department of natural resources 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 administration expenses of the underground storage tank section of the department of natural resources:

..... \$ 75,000*

*Sec. 44. FLOODPLAIN PERMIT BACKLOG. Notwithstanding any contrary provision of state law, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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. 45. IMPLEMENTATION OF THE FEDERAL TOTAL MAXIMUM DAILY LOAD PROGRAM. Notwithstanding any contrary provision of state law, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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*

DIVISION III
ECONOMIC DEVELOPMENT

*Sec. 46. GOALS AND ACCOUNTABILITY.

1. The goals for the department of economic development shall be to expand and stimulate the state economy, increase the wealth of Iowans, and increase the population of the state.

2. To achieve the goals in subsection 1, the department of economic development shall do all of the following:

a. Concentrate its efforts on programs and activities that result in commercially viable products and services.

b. Adopt practices and services consistent with free market, private sector philosophies.

c. Ensure economic growth and development throughout the state.

3. The department of economic development shall demonstrate accountability by using performance measures appropriate to show the attainment of the goals in subsection 1 for the state and by measuring the effectiveness and results of the department's programs and activities. The performance measures and associated benchmarks shall be developed or identified in cooperation with the legislative fiscal bureau and approved by the joint appropriations subcommittee on economic development. The data demonstrating accountability collected by the department shall be made readily available and maintained in computer-readable format.*

*Sec. 47. DEPARTMENT OF ECONOMIC DEVELOPMENT. There is appropriated from the general fund of the state to the department of economic development for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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, programs, for the transfer to the Iowa state commission grant program, and for not more than the following full-time equivalent positions:

..... \$ 1,509,134

..... FTEs 28.75

b. The department shall work with businesses and communities to continually improve the

* Item veto; see message at end of the Act

economic development climate along with the economic well-being and quality of life for Iowans. The administrative services division shall coordinate with other state agencies ensuring that all state departments are attentive to the needs of an entrepreneurial culture.

2. BUSINESS DEVELOPMENT DIVISION

a. Business development operations

For business development operations and programs, international trade, export assistance, workforce recruitment, the partner state program, for transfer to the strategic investment fund, for transfer to the value-added agricultural products and processes financial assistance fund, salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	11,311,286
.....	FTEs	60.00

b. The department shall establish a strong and aggressive marketing image to showcase Iowa's workforce, existing industry, and potential. A priority shall be placed on recruiting new businesses, business expansion, and retaining existing Iowa businesses. Emphasis shall also be placed on entrepreneurial development through helping to secure capital for entrepreneurs, and developing networks and a business climate conducive to entrepreneurs and small business.

c. 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.

d. The department shall create a position to cooperate and coordinate with the economic development activities at the institutions of higher learning under the control of the state board of regents. The individual shall serve as a facilitator between the institutions and businesses or prospective businesses; promote linkages among businesses, investors, and economic development programs; and assist in securing funding for businesses. The individual shall inventory, monitor, and evaluate the research, proposed projects, inventions, and other results of research at the institutions that are in the state's economic interest to promote and protect. The individual shall identify projects and ideas that the state should claim a proprietary interest in, including referrals for patents, licensing, and referrals to the department for further development. An emphasis shall be placed on developing Iowa-based businesses and locating businesses within the state. The individual shall prepare an annual report that analyzes and evaluates the ideas, research, and projects reviewed and facilitated during the fiscal year. The report shall include quantitative information concerning jobs created and retained, business start-up activities, retention of new businesses, and royalties, licenses, and fees generated by these businesses and activities.

3. COMMUNITY AND RURAL DEVELOPMENT DIVISION

a. Community development programs

For salaries, support, maintenance, miscellaneous purposes, community economic development programs, tourism operations, community assistance, the film office, the mainstreet and rural mainstreet programs, the school-to-career program, the community development block grant, and housing and shelter-related programs and for not more than the following full-time equivalent positions:

.....	\$	5,091,404
.....	FTEs	65.00

b. The department shall encourage development of communities and quality of life to foster economic growth. The department shall prepare communities for future growth and development through development, expansion, and modernization of infrastructure.

c. The department shall develop 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.

d. Notwithstanding section 8.33, moneys that remain unexpended at the end of the fiscal

year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.

4. For a study conducted by a person, as defined in section 4.1, contracting with the department to inventory economic development programs on a statewide basis:

..... \$ 30,000

5. For allocating moneys for the world food prize:

..... \$ 285,000*

Sec. 48. VISION IOWA PROGRAM — FTE AUTHORIZATION. For purposes of administrative duties associated with the vision Iowa program, the department of economic development is authorized an additional 3.00 full-time equivalent positions above those otherwise authorized in this division of this Act.

*Sec. 49. RURAL COMMUNITY 2000 PROGRAM. There is appropriated from loan repayments on loans under the former rural community 2000 program, sections 15.281 through 15.288, Code 2001, to the department of economic development for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For providing financial assistance to Iowa's councils of governments that provide technical and planning assistance to local governments:

..... \$ 150,000

2. For the rural development program for the purposes of the program including the rural enterprise fund and collaborative skills development training:

..... \$ 370,000*

*Sec. 50. 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 of economic development for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, for insurance economic development and international insurance economic development:

..... \$ 100,000*

*Sec. 51. 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, 2002, and ending June 30, 2003, 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*

Sec. 52. COMMUNITY DEVELOPMENT LOAN FUND. Notwithstanding section 15E.120, subsections 5 and 6, there is appropriated from the Iowa community development loan fund all the moneys available during the fiscal year beginning July 1, 2002, and ending June 30, 2003, to the department of economic development for the community development program to be used by the department for the purposes of the program.

*Sec. 53. 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, 2002, and ending June 30, 2003, 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*

* Item veto; see message at end of the Act

Sec. 54. WORKFORCE DEVELOPMENT ADMINISTRATION. 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, 2002, and ending June 30, 2003, may be used for the administration of workforce development activities including salaries, support, maintenance, and miscellaneous purposes and for not more than 4.00 full-time equivalent positions.

Sec. 55. JOB TRAINING FUND. Notwithstanding section 15.251, all remaining moneys in the job training fund on July 1, 2002, and any moneys appropriated or credited to the fund during the fiscal year beginning July 1, 2002, shall be transferred to the workforce development fund established pursuant to section 15.343.

**Sec. 56. IOWA STATE UNIVERSITY.*

1. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for small business development centers, the science and technology research park, the institute for physical research, and for not more than the following full-time equivalent positions:

.....	\$	4,734,063
.....	FTEs	56.53

2. Iowa state university of science and technology shall do all of the following:

a. Direct expenditures for research toward projects that will provide economic stimulus for Iowa.

b. Emphasize that a business and an individual that creates a business and receives benefits from a program funded, in part, through moneys appropriated in this section have a commercially viable product or service.

c. Provide emphasis to providing services to Iowa-based companies.

3. 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 amount 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. 57. UNIVERSITY OF IOWA.*

1. There is appropriated from the general fund of the state to the state university of Iowa 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 university of Iowa research park and for the advanced drug development program at the Oakdale research park, including salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	485,463
.....	FTEs	6.00

* Item veto; see message at end of the Act

- 2. *The university of Iowa shall do all of the following:*
 - a. *Direct expenditures for research toward projects that will provide economic stimulus for Iowa.*
 - b. *Emphasize that a business and an individual that creates a business and receives benefits from a program funded, in part, through moneys appropriated in this section have a commercially viable product or service.*
 - c. *Provide emphasis to providing services to Iowa-based companies.*
- 3. *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, 2003.*
- 4. *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. 58. UNIVERSITY OF NORTHERN IOWA.*

1. *There is appropriated from the general fund of the state to the university of northern Iowa 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 metal casting institute, and for the institute of decision making, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:*

.....	\$	702,889
.....	FTEs	11.15

- 2. *The university of northern Iowa shall do all of the following:*
 - a. *Direct expenditures for research toward projects that will provide economic stimulus for Iowa.*
 - b. *Emphasize that a business and an individual that creates a business and receives benefits from a program funded, in part, through moneys appropriated in this section have a commercially viable product or service.*
 - c. *Provide emphasis to providing services to Iowa-based companies.*
- 3. *Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.**

**Sec. 59. DEPARTMENT OF WORKFORCE DEVELOPMENT.*

1. *There is appropriated from the general fund of the state, to the department of workforce development for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, for the division of labor services, the division of workers' compensation, the workforce development state and regional boards, the new employment opportunity fund, salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:*

.....	\$	4,988,053
.....	FTEs	113.30

- 2. *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.*
- 3. *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.*
- 4. *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.**

* Item veto; see message at end of the Act

Sec. 60. 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, 2002, and ending June 30, 2003, any moneys remaining in the administrative contribution surcharge fund on June 30, 2002, and the entire amount collected during the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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. 61. 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, 2002, and ending June 30, 2003, 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

2. IMMIGRATION SERVICE CENTERS

For salaries, support, maintenance, and miscellaneous purposes for the pilot immigration service centers:

..... \$ 160,000

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.

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 position:

..... \$ 67,078

..... FTEs 1.00

*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, 2003.**

**Sec. 62. PUBLIC EMPLOYMENT RELATIONS BOARD. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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:

..... \$ 834,210

..... FTEs 12.00*

Sec. 63. Section 15E.112, subsection 5, Code 2001, is amended by striking the subsection.

Sec. 64. Section 159A.7, subsection 6, Code 2001, is amended by striking the subsection.

**Sec. 65. 2000 Iowa Acts, chapter 1230, section 11, unnumbered paragraph 3, as amended by 2001 Iowa Acts, chapter 188, section 19, is amended to read as follows:*

* Item veto; see message at end of the Act

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 ~~years~~ beginning July 1, 2001, and July 1, 2002.*

Sec. 66. VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES FINANCIAL ASSISTANCE FUND MONEYS. The office of renewable fuels and coproducts may apply to the department of economic development for moneys in value-added agricultural products and processes financial assistance fund for deposit in the renewable fuels and coproducts fund created in section 159A.7.

Sec. 67. IOWA FINANCE AUTHORITY AUDIT. The auditor of state is requested to review the audit of the Iowa finance authority performed by the auditor hired by the authority. The auditor of state is also requested to conduct a performance audit of the authority to determine the effectiveness of the authority and the programs of the authority.

Sec. 68. APPLICATION FOR DEPARTMENT OF ECONOMIC DEVELOPMENT MONIES. For the fiscal year beginning July 1, 2002, any entity that was specifically identified in 2001 Iowa Acts, chapter 188, to receive funding from the department of economic development, excluding any entity identified to receive a direct appropriation beginning July 1, 2002, may apply to the department for assistance through the appropriate program. The department shall provide application criteria necessary to implement this section.

Sec. 69. EXPENDITURE AND ALLOCATION REPORTS. The department of economic development, the department of workforce development, and the regents institutions receiving an appropriation pursuant to this division of this Act shall file a written report on a quarterly basis with the chairpersons and ranking members of the joint appropriations subcommittee on economic development and the legislative fiscal bureau regarding all expenditures of moneys appropriated pursuant to this division of this Act during the quarter, allocations of moneys appropriated pursuant to this division of this Act during the quarter, and full-time equivalent positions allocated during the quarter.

Sec. 70. EMPLOYER'S CONTRIBUTION AND PAYROLL REPORT FORM. Notwithstanding Iowa administrative code 871, chapter 22, an entity filing the employer's contribution and payroll report form and any other unemployment insurance forms on behalf of multiple accounts shall be allowed to submit one check for these accounts. A listing of applicable account numbers shall be submitted with the payment.

Sec. 71. SHELTER ASSISTANCE FUND. In providing moneys from the shelter assistance fund to homeless shelter programs in the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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. 72. ISCC REPORT. By December 31, 2002, the department of economic development shall submit a written report to the chairpersons and the ranking members of the joint appropriations subcommittee on economic development and the legislative fiscal bureau. The report shall identify any moneys received from the ISCC liquidation corporation.

*Sec. 73. FEDERAL GRANTS. All federal grants to and the federal receipts of agencies appropriated funds under this division of this Act, not otherwise appropriated, are appropriated

* Item veto; see message at end of the Act

for the purposes set forth in the federal grants or receipts unless otherwise provided by the general assembly.*

Sec. 74. UNEMPLOYMENT COMPENSATION PROGRAM. 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. 75. PAYROLL EXPENDITURE REFUNDS. In lieu of the appropriation made in section 15.365, subsection 3, there is appropriated for the fiscal year beginning July 1, 2002, and ending June 30, 2003, \$28,498, 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.

DIVISION IV
EDUCATION
COLLEGE STUDENT AID COMMISSION

Sec. 76. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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:	
.....	\$ 293,138
.....	FTEs 5.20
2. STUDENT AID PROGRAMS	
For payments to students for the Iowa grant program:	
.....	\$ 1,029,884
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:	
.....	\$ 95,700 ³
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:	
.....	\$ 355,334
4. ACCELERATED CAREER EDUCATION GRANT PROGRAM	
For the accelerated career education grant program established in section 261.22:	
.....	\$ 224,895
5. CHIROPRACTIC GRADUATE STUDENT FORGIVABLE LOAN PROGRAM	
For purposes of providing forgivable loans under the program established in section 261.71:	
.....	\$ 89,958 ⁴
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:	
.....	\$ 472,279

Sec. 77. WORK-STUDY APPROPRIATION NULLIFICATION FOR FY 2002-2003. Notwithstanding section 261.85, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the amount appropriated for the work-study program under section 261.85 shall be zero.

* Item veto; see message at end of the Act

³ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §80, 95 herein

⁴ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §81, 95 herein

DEPARTMENT OF CULTURAL AFFAIRS

Sec. 78. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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:

.....	\$	231,707 ⁵
.....	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 position:

.....	\$	598,450
.....	FTEs	0.70

3. HISTORICAL DIVISION

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

.....	\$	3,025,891
.....	FTEs	66.70

4. HISTORIC SITES

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

.....	\$	536,146
.....	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:

.....	\$	1,254,679
.....	FTEs	11.00 ⁶

DEPARTMENT OF EDUCATION

Sec. 79. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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:

.....	\$	5,165,531
.....	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:

.....	\$	500,111
.....	FTEs	15.60

⁵ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §82, 95 herein

⁶ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §83, 95 herein

3. BOARD OF EDUCATIONAL EXAMINERS

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

.....	\$	43,695
.....	FTEs	9.00 ⁷

4. VOCATIONAL REHABILITATION SERVICES DIVISION

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

.....	\$	4,386,854 ⁸
.....	FTEs	290.50

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, 2003, 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 position:

.....	\$	57,158 ⁹
.....	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:

.....	\$	1,500,000 ¹⁰
.....	FTEs	20.00

b. For the enrich Iowa program:

.....	\$	1,781,168 ¹¹
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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, 2002, shall not be lower than the amount distributed under the enrich Iowa

⁷ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §84, 95 herein

⁸ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §85, 95 herein

⁹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §86, 95 herein

¹⁰ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §87, 95 herein

¹¹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §88, 95 herein

program for the fiscal year commencing July 1, 2001. 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 library district 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, 2003, 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. LIBRARY SERVICE AREA SYSTEM

For state aid:

..... \$ 1,443,613

7. PUBLIC BROADCASTING DIVISION

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

..... \$ 6,856,407

..... FTEs 89.00¹²

8. REGIONAL TELECOMMUNICATIONS COUNCIL

For state aid and for not more than the following full-time equivalent positions:

..... \$ 1,612,500

..... FTEs 8.00

a. Of the amount appropriated in this section, \$340,215 shall be allocated to the public broadcasting division for purposes of providing support for functions related to the Iowa communications 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.

¹² See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §89, 95 herein

b. Of the amount appropriated in this section, \$1,272,285 shall be allocated 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.

9. VOCATIONAL EDUCATION TO SECONDARY SCHOOLS

For reimbursement for vocational education expenditures made by secondary schools:

..... \$ 3,012,209

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.

10. 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:

..... \$ 2,574,034

11. IOWA EMPOWERMENT FUND

For deposit in the school ready children grants account of the Iowa empowerment fund created in section 28.9:

..... \$ 14,033,448¹³

a. From the moneys deposited in the school ready children grants account for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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, 2002, the total amount available for distribution for that fiscal year from the school ready children grants account from the appropriation made in this subsection and in any other appropriation made to the account for the fiscal year beginning July 1, 2002, shall be distributed as follows:

(1) If the total amount deposited in the school ready children grants account for fiscal year 2002-2003 is reduced from the total amount deposited in the account for fiscal year 2001-2002, the school ready children grants for those designated community empowerment areas that first received a school ready children grant in a fiscal year prior to fiscal year 2000-2001 shall be subject to an adjustment factor. The adjustment factor shall be determined by calculating the amount of reduction in the deposits between the two fiscal years as a percentage of the combined amount actually distributed in fiscal year 2001-2002 to those designated community empowerment areas that first received a school ready children grant in a fiscal year prior to fiscal year 2000-2001. Each designated community empowerment area that first received a school ready children grant in a fiscal year prior to fiscal year 2000-2001 shall receive an amount for fiscal year 2002-2003 equivalent to the amount received by the area in fiscal year 2001-2002 as decreased by applying the adjustment factor.

(2) The designated community empowerment areas that first received a school ready children grant in fiscal year 2000-2001 shall receive for fiscal year 2002-2003 an amount equivalent to the amount distributed to each of those areas for fiscal year 2001-2002.

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

¹³ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §90, 95 herein

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.

12. 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:

..... \$ 578,880

13. VOCATIONAL EDUCATION YOUTH ORGANIZATION

To assist a vocational education youth organization sponsored by the schools to support the foundation established by that vocational education youth organization and for other youth activities:

..... \$ 81,630

14. 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:

..... \$ 185,212
 FTEs 2.50

15. 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 by a "jobs for America's graduates" specialist:

..... \$ 136,552

It is the intent of the general assembly to cease providing state assistance for purposes of the jobs for America's graduates program beyond the fiscal year ending June 30, 2003.

16. AMERICORPS AFTER-SCHOOL INITIATIVE

For purposes of the americorps after-school initiative:

..... \$ 136,552

**It is the intent of the general assembly to cease providing state assistance for purposes of the americorps after-school initiative beyond the fiscal year ending June 30, 2003.*¹⁴*

17. STUDENT ACHIEVEMENT AND TEACHER QUALITY PROGRAM

For purposes, as provided in law, of the student achievement and teacher quality program established pursuant to chapter 284:

..... \$ 7,750,000¹⁵

Notwithstanding section 8.33, any moneys remaining unencumbered or unobligated from the moneys allocated as provided in this subsection 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 subsection.

18. COMMUNITY COLLEGES

For general state financial aid, including general financial aid to merged areas in lieu of 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:

..... \$ 137,585,680

* Item veto; see message at end of the Act

¹⁴ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §91, 95 herein

¹⁵ See chapter 1175, §106 herein

The funds appropriated in this subsection shall be allocated as follows:

a. Merged Area I	\$	6,602,820
b. Merged Area II	\$	7,755,900
c. Merged Area III	\$	7,205,055
d. Merged Area IV	\$	3,521,678
e. Merged Area V	\$	7,367,785
f. Merged Area VI	\$	6,826,113
g. Merged Area VII	\$	9,849,174
h. Merged Area IX	\$	12,113,770
i. Merged Area X	\$	19,011,042
j. Merged Area XI	\$	20,177,551
k. Merged Area XII	\$	7,949,367
l. Merged Area XIII	\$	8,174,348
m. Merged Area XIV	\$	3,563,670
n. Merged Area XV	\$	11,213,616
o. Merged Area XVI	\$	6,253,791 ¹⁶

Sec. 80. 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, 2002, 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. 81. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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:

.....	\$	1,177,051
.....	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, 2002, the amount that needs to be appropriated for tuition replacement for the fiscal year beginning July 1, 2003.

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 funds to be allocated to the southwest Iowa graduate studies center:

.....	\$	108,644
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c. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:

.....	\$	80,024
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d. For funds to be allocated to the quad-cities graduate studies center:

.....	\$	161,758
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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:

.....	\$	229,802,807 ¹⁷
.....	FTEs	4,055.62

¹⁶ See chapter 1175, §106 herein

¹⁷ See chapter 1175, §107 herein

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 Iowans. 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:

.....	\$	29,114,188
.....	FTEs	5,471.01

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, 2003, 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, 2002, 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:

.....	\$	7,446,268
.....	FTEs	272.11

d. Center for disabilities and development

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

.....	\$	6,678,843
.....	FTEs	143.34

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:

.....	\$	2,820,522
.....	FTEs	43.25

f. State hygienic laboratory

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

.....	\$	3,948,752
.....	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:

.....	\$	2,195,031
.....	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:

.....	\$	649,877
.....	FTEs	53.46

i. Statewide cancer registry

For the statewide cancer registry, and for not more than the following full-time equivalent positions:

.....	\$	190,934
.....	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:

.....	\$	68,675
.....	FTEs	1.50

k. Center for biocatalysis

For the center for biocatalysis, and for not more than the following full-time equivalent positions:

.....	\$	948,854
.....	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:

.....	\$	810,484
.....	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:

.....	\$	47,365
.....	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:

.....	\$	181,487,906 ¹⁸
.....	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:

.....	\$	32,954,175
.....	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:

.....	\$	20,822,682
.....	FTEs	383.34

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:

.....	\$	504,357
.....	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:

.....	\$	240,636
.....	FTEs	3.17

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:

.....	\$	81,226,925 ¹⁹
.....	FTEs	1,428.79

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

¹⁸ See chapter 1175, §107 herein

¹⁹ See chapter 1175, §107 herein

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 position:

.....	\$	221,447
.....	FTEs	0.89

5. STATE SCHOOL FOR THE DEAF

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

.....	\$	7,891,351
.....	FTEs	117.29 ²⁰

6. IOWA BRAILLE AND SIGHT SAVING SCHOOL

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

.....	\$	4,422,904
.....	FTEs	81.00

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:

.....	\$	15,103
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Sec. 82. MEDICAL ASSISTANCE — SUPPLEMENTAL AMOUNTS. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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, 2002, and ending September 30, 2003, 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

²⁰ See chapter 1175, §56 herein

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. 83. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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. 84. 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, 2002, 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. 85. 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-seven million ~~eight one~~ eight one hundred ~~thirty~~ thirty ~~fifty-five~~ fifty-five thousand ~~seventy-five~~ three hundred eighty-two dollars for tuition grants.²¹

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~~ seventy-seven thousand ~~five one~~ five one hundred ~~forty~~ three 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~~ seventy-five thousand ~~four~~ six hundred ~~fifty-seven~~ fifty-seven dollars for vocational-technical tuition grants.

²¹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §93, 95 herein

Sec. 86. NEW SECTION. 262.100 INNOVATIVE SCHOOL CALENDAR PILOT PROGRAM — SCHOOL FOR THE DEAF.

The state board of regents may establish a three-year pilot program to evaluate the benefits of establishing an innovative school calendar for the school for the deaf. If the board establishes a pilot program in accordance with this section, the board shall provide for the administration of valid and reliable standardized assessments to demonstrate the program's effect on student achievement. Any findings and recommendations resulting from a pilot program established in accordance with this section shall be submitted to the chairpersons and ranking members of the senate and house standing committees on education and the joint appropriations subcommittee on education by December 15, 2005. The report shall include a listing of the savings, goals and outcomes, and the effect of the innovative school calendar on student achievement and the school's educational program. This section is repealed effective June 30, 2006.

DIVISION V
HEALTH AND HUMAN RIGHTS

*Sec. 87. 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, 2002, and ending June 30, 2003, 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:

.....	\$	1,601,864
.....	FTEs	106.50*

*Sec. 88. 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, 2002, and ending June 30, 2003, 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:

.....	\$	951,050
.....	FTEs	35.75

If the anticipated amount of federal funding from the federal equal employment opportunity commission and the federal department of housing and urban development exceeds \$1,144,875 during the fiscal year beginning July 1, 2002, 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. 89. 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, 2002, and ending June 30, 2003, 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 60 years of age and older with case management for the frail elderly, Alzheimer's support, the retired and senior volunteer program, resident advocate committee coordination, employment, and other services which may include, but are not limited to, adult day services, respite care, chore services, telephone reassurance, information and assistance, and home repair services, 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:

.....	\$	4,113,252
.....	FTEs	28.00

* Item veto; see message at end of the Act

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 and 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. 90. GOVERNOR'S OFFICE OF DRUG CONTROL POLICY.

1. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes including statewide coordination of the drug abuse resistance education (D.A.R.E.) programs or similar programs, and for not more than the following full-time equivalent positions:

.....	\$	411,504
.....	FTEs	11.00

2. The governor's office of drug control policy, in consultation with the Iowa department of public health, and after discussion and collaboration with all interested agencies, shall coordinate substance abuse treatment and prevention efforts in order to avoid duplication of services.*

*Sec. 91. 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, 2002, and ending June 30, 2003, 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:

.....	\$	1,238,722
.....	FTEs	15.51

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.

* Item veto; see message at end of the Act

c. The department and any grantee or subgrantee of the department shall not discriminate against a nongovernmental organization that provides substance abuse treatment and prevention services or applies for funding to provide those services on the basis that the organization has a religious character. The department shall report to the governor and the general assembly on or before February 1, 2003, regarding the number of religious or other nongovernmental organizations that applied for funds in the preceding fiscal year, the amounts awarded to those organizations, and the basis for any refusal by the department or grantee or subgrantee of the department to award funds to any of those organizations that applied.

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:

.....	\$	521,096
.....	FTEs	24.27

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:

.....	\$	1,144,177
.....	FTEs	47.07

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:

.....	\$	1,226,652
.....	FTEs	10.30

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:

.....	\$	1,283,473
.....	FTEs	26.12

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:

.....	\$	9,900,801
.....	FTEs	4.05

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:

.....	\$	165,715
.....	FTEs	9.20

Of the full-time equivalent positions authorized in this subsection, 1.00 full-time equivalent position is contingent upon enactment of a statute transferring the abandoned wells program from the department of natural resources to the Iowa department of public health.

8. INFECTIOUS DISEASES

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

.....	\$	1,147,036
.....	FTEs	36.40

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:

.....	\$	1,536,236
.....	FTEs	8.55

Of the funds appropriated in this subsection, \$660,000 shall be credited to the emergency medical services fund created in section 135.25.

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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:

.....	\$	6,564,644
.....	FTEs	129.77

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, 2002, 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, 2002, 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.

c. The department may retain and expend not more than \$279,056 for lease and maintenance expenses from fees collected pursuant to section 147.80 by the board of dental examiners, the board of pharmacy examiners, the board of medical examiners, and the board of nursing in the fiscal year beginning July 1, 2002, and ending June 30, 2003. 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, 2002, and ending June 30, 2003. 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 funds appropriated in 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 \$148,060 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 board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing 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 board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing shall retain their individual executive officers, but are

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strongly encouraged to share administrative, clerical, and investigative staffs to the greatest extent possible.

i. The licensing boards funded under this section shall submit a report by February 1, 2003, to the chairpersons and ranking members of the joint appropriations subcommittee on health and human rights providing management to staff ratios of all funded positions as of January 13, 2003.

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:

.....	\$	1,152,902
.....	FTEs	53.76

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.

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.

d. It is the intent of the general assembly that the Iowa department of public health and the department of human services shall discuss the feasibility of combining adolescent pregnancy prevention programs under one department and shall submit a written report regarding such discussions to the chairpersons and ranking members of the joint appropriations subcommittee on health and human rights by November 1, 2002.*

*Sec. 92. 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, 2002, and ending June 30, 2003, 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:

.....	\$	267,669
.....	FTEs	7.00

2. DEAF SERVICES DIVISION

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

.....	\$	328,616
.....	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:

.....	\$	181,294
.....	FTEs	3.50

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4. LATINO AFFAIRS DIVISION

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

.....	\$	162,434
.....	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:

.....	\$	349,126
.....	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:

.....	\$	130,234
.....	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:

.....	\$	385,973
.....	FTEs	9.15

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.

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 position:

.....	\$	593,109
.....	FTEs	0.75

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. 93. 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, 2002, and ending June 30, 2003, 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:

.....	\$	196,727
.....	FTEs	3.00

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:

.....	\$	14,445,694
.....	FTEs	843.00

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.

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b. 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.

c. 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.

d. The Iowa veterans home shall operate with a net state general fund appropriation. The amount appropriated in this subsection is the net amount of state moneys projected to be needed for the Iowa veterans home. The purposes of operating with a net state general fund appropriation are to encourage the Iowa veterans home to operate with increased self-sufficiency, to improve quality and efficiency, and to support collaborative efforts among all funders of services available from the Iowa veterans home. Moneys appropriated in this subsection 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 Iowa veterans home may temporarily draw more than the amount appropriated, provided the amount appropriated is not exceeded at the close of the fiscal year. Beginning September 1, 2002, the Iowa veterans home shall submit a report every other month to the chairpersons and ranking members of the joint appropriations subcommittee on health and human rights and to the legislative fiscal committee providing a financial analysis of revenues and expenses.

e. Revenues attributable to the Iowa veterans home for the fiscal year beginning July 1, 2002, shall be deposited into the Iowa veterans home account and shall be treated as repayment receipts, including but not limited to all of the following:

- (1) Federal veterans administration payments.
- (2) 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 Iowa veterans home is authorized to provide.

f. For the purposes of allocating the salary adjustment fund moneys appropriated in another Act, the Iowa veterans home shall be considered to be funded entirely with state moneys.

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

*Sec. 94. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

a. Addictive disorders

To be utilized for the benefit of persons with addictions:

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

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

c. Gambling treatment program

The funds remaining in the gambling treatment fund after the appropriation in paragraph "a" is 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, 2002, and ending June 30, 2003, from the tax revenue received by the state racing and gaming commission pursuant to section 99D.15, subsections

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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. 95. 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, and 2001 Iowa Acts, chapter 182, section 13, shall be extended until June 30, 2003, 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, 2003.

Sec. 96. SPAN OF CONTROL REPORTING. 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 shall submit a report by February 1, 2003, to the chairpersons and ranking members of the joint appropriations subcommittee on health and human rights providing all management to staff ratios of all funded positions as of January 13, 2003.

Sec. 97. PROGRAM PERFORMANCE BUDGETS. It is the intent of the general assembly that 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 develop program performance budget measures to include, but not be limited to, the development and tracking of demand, workload, productivity, and effectiveness performance indicators for each program. The program performance measures shall include minority programs and grants received by minority programs. The program performance measures shall also include gender-based programs. The purpose of the program performance budget initiative is to emphasize the programs the agencies provide based upon citizen needs, the agencies' responses to those needs, and the resources the agencies require to respond to those needs. The agencies shall submit a report on the status of achieving the program performance measures to the chairpersons and ranking members of the joint appropriations subcommittee on health and human rights by December 16, 2002.

Sec. 98. SCOPE OF PRACTICE REVIEW PROJECT. The scope of practice review committee pilot project as enacted in 1997 Iowa Acts, chapter 203, section 6, shall be extended until July 1, 2003. The Iowa department of public health shall submit an annual progress report to the governor and the general assembly by January 15 and shall include any recommendations for legislative action as a result of review committee activities. The department may contract with a school or college of public health in Iowa to assist in implementing the project.

DIVISION VI HUMAN SERVICES

*Sec. 99. 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, 2002, and ending June 30, 2003, 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 and successor legislation, which are federally appropriated for the federal fiscal years beginning October 1, 2001, and ending September 30, 2002, and beginning October 1, 2002, and ending September 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

If the federal government appropriation received for Iowa's portion of the federal temporary assistance for needy families block grant for the federal fiscal year beginning October 1, 2002,

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and ending September 30, 2003, is less than \$131,524,959, it is the intent of the general assembly to act expeditiously during the 2003 legislative session to adjust appropriations or take other actions to address the reduced amount. 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:

1. To be credited to the family investment program account and used for assistance under the family investment program under chapter 239B:

..... \$ 45,618,447

2. To be credited to the family investment program account and used for the job opportunities and basic skills (JOBS) program, and implementing family investment agreements, in accordance with chapter 239B:

..... \$ 13,412,794

3. For field operations:

..... \$ 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

a. Of the funds appropriated in this subsection, \$200,000 shall be used for provision of educational opportunities to registered child care home providers in order to improve services and programs offered by this category of providers and to increase the number of providers. The department may contract with institutions of higher education or child care resource and referral centers to provide the educational opportunities. Allowable administrative costs under the contracts shall not exceed 5 percent. The application for a grant shall not exceed two pages in length.

b. Of the funds appropriated in this subsection, the maximum amount allowed under Pub. L. No. 104-193 shall be transferred to the child care and development block grant appropriation. Funds appropriated in this subsection that remain following the transfer shall be used to provide direct spending for the child care needs of working parents in families eligible for the family investment program.

7. For emergency assistance:

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

8. For mental health and developmental disabilities community services:

..... \$ 4,349,266

9. For child and family services:

..... \$ 22,896,571

10. For child abuse prevention grants:

..... \$ 250,000

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, 2002, 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, 2002, 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:

..... \$ 565,088

13. For volunteers:

..... \$ 42,663

14. For individual development accounts under chapter 541A:

..... \$ 150,000

15. 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

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

..... \$ 6,350,000

a. The department may transfer federal temporary assistance for needy families block grant funding appropriated and allocated in this subsection to the child care and development block grant appropriation in accordance with federal law as necessary to comply with the provisions of this subsection. The funding shall then be provided to community empowerment areas for the fiscal year beginning July 1, 2002, in accordance with all of the following:

(1) The area must be approved as a designated community empowerment area by the Iowa empowerment board.

(2) 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 2002-2003 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.

(3) 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.

(4) The availability of funding provided under this subsection is subject to changes in federal requirements and amendments to Iowa law.

b. The moneys distributed in accordance with this subsection 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. In addition to the full-time equivalent positions funded in this division of this Act, 1.00 full-time equivalent position is authorized and the department may use funding appropriated in this subsection for provision of technical assistance and other support to communities developing and implementing strategies with moneys distributed in accordance with this subsection.

c. Moneys that are subject to this subsection 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.

Of the amounts appropriated in this section, \$11,612,112 for the fiscal year beginning July 1, 2002, 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 eco-

conomic downturns and welfare reform purposes and is subject to further state appropriation to support families in their movement toward self-sufficiency.

Federal funding received that is designated for activities supporting marriage or two-parent families is appropriated to the Iowa marriage initiative grant fund created in section 234.45.*

*Sec. 100. FAMILY INVESTMENT PROGRAM ACCOUNT.

1. Moneys credited to the family investment program (FIP) account for the fiscal year beginning July 1, 2002, and ending June 30, 2003, shall be used in accordance with the following requirements:

- a. The department shall provide assistance in accordance with chapter 239B.
- 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. (1) The department shall continue expansion of the electronic benefit transfer program as necessary to comply with federal food stamp benefit requirements. The target date for state-wide implementation of the program is October 1, 2003.

(2) Notwithstanding section 234.12A, subsection 1, for the fiscal year beginning July 1, 2002, a retailer providing electronic equipment shall not be reimbursed a transaction fee.

2. 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 6.00

3. 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, 2002, 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.

4. Moneys appropriated in this division of this Act and credited to the family investment program account for the fiscal year beginning July 1, 2002, and ending June 30, 2003, are allocated as follows:

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

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

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

(2) 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) The department may continue to implement the family development and self-sufficiency grant program statewide during FY 2002-2003.

b. For the diversion subaccount of the family investment program account:

..... \$ 1,814,000

(1) 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. The requirements established and position authorized under 2001 Iowa Acts, chapter 191, section

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3, subsection 5, paragraph "c", subparagraph (1), shall remain applicable to the initiative for fiscal year 2002-2003.

(2) Of the moneys allocated to the diversion subaccount, not more than \$250,000 shall be used to develop or continue community-level parental obligation pilot projects. The requirements established under 2001 Iowa Acts, chapter 191, section 3, subsection 5, paragraph "c", subparagraph (3), shall remain applicable to the parental obligation pilot projects for fiscal year 2002-2003.

c. For the food stamp employment and training program:

..... \$ 63,000

5. 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.

6. 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.

7. 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.*

*Sec. 101. 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, 2002, and ending June 30, 2003, 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:

..... \$ 35,288,782

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.

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, \$9,274,143 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. 102. EMERGENCY ASSISTANCE.

1. The emergency assistance funds received in accordance with this section and federal moneys appropriated for this purpose in this division of this Act shall be available beginning October 1, 2002, and shall be provided only if all other publicly funded resources have been

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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 12-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. a. For the fiscal year beginning July 1, 2002, 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 Act and are appropriated to be used as additional funds for the emergency assistance program.

b. 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 beginning July 1, 2002, shall not revert but shall remain available for expenditure when the program resumes operation on October 1 in the succeeding fiscal year.*

*Sec. 103. 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, 2002, and ending June 30, 2003, 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:

.....	\$	6,027,801
.....	FTEs	406.40

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

* Item veto; see message at end of the Act

provisions of chapter 19A and from the provisions of collective bargaining agreements relating to the filling of vacant positions.

5. 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.

6. The department shall expend up to \$51,000, including federal financial participation, for the fiscal year beginning July 1, 2002, 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.

7. 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. 104. 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, 2002, and ending June 30, 2003, 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, 2002, 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:

..... \$ 416,607,073

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

* Item veto; see message at end of the Act

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. 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, 2002, 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 waivers, the total number of openings for persons with physical disabilities served at any one time shall be limited to the number approved for a 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 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.

9. 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.

10. If the federal centers for Medicare and Medicaid services 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.

11. The department shall aggressively pursue options for providing medical assistance or other assistance to individuals with special needs who become ineligible to continue receiving services under the early and periodic, screening, diagnosis, and treatment program under the medical assistance program due to becoming 21 years of age, who have been approved for additional assistance through the department's exception to policy provisions, but who have health care needs in excess of the funding available through the exception to policy process.

12. If federal funding is received or if moneys are appropriated, 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 administered by the Iowa telecare consortium, which is a collaboration of public, private, academic, and governmental participants. 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 program guidelines shall be consistent with those specified under 2001 Iowa Acts, chapter 191, section 7, subsection 15.

13. The drug utilization review board shall submit copies of the board's annual review, including facts and findings, of the drugs on the department's prior authorization list to the department and to the members of the joint appropriations subcommittee on human services.

14. The department shall expend the anticipated savings for operation of the state maximum allowable cost program for pharmaceuticals as additional funding for the medical assistance program.*

*Sec. 105. 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, 2002, and ending June 30, 2003, 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:

.....	\$	580,044
.....	FTEs	22.00*

Sec. 106. 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, 2002, and ending June 30, 2003, 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:

.....	\$	9,958,412 ²²
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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 program. The department shall provide periodic updates to the general assembly of expenditures of funds appropriated in this section.

2. Moneys in the hawk-i trust fund are appropriated to the department of human services and shall be used to offset any program costs for the fiscal year beginning July 1, 2002, and ending June 30, 2003.

*Sec. 107. 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, 2002, and ending

* Item veto; see message at end of the Act

²² See chapter 1175, §109 herein

June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

..... \$ 8,729,141

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. In any managed care contract for mental health or substance abuse services entered into or extended by the department on or after July 1, 2002, 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, 2002, to provide for such coverage.*

*Sec. 108. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For state supplementary assistance and the medical assistance home and community-based services waiver rent subsidy program:

..... \$ 19,500,000

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, 2002, the department projects that state supplementary assistance expenditures for a calendar year will not meet the federal pass-along requirement specified in Title XVI of the federal Social Security Act, section 1618, as codified in 42 U.S.C. § 1382g, the department may take actions including but not limited to increasing the personal needs allowance for residential care facility residents and making programmatic adjustments or upward adjustments of the residential care facility or in-home health-related care reimbursement rates prescribed in this division of this Act to ensure that federal requirements are met. The department may adopt emergency rules to implement the provisions of this subsection.

3. The department may use up to \$25,000 of the funds appropriated in this section for a rent subsidy program for adult persons. The requirements under 2001 Iowa Acts, chapter 191, section 11, subsection 3, shall apply to the program and the participants in the program.*

*Sec. 109. 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, 2002, and ending June 30, 2003, 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 2002-2003 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.

* Item veto; see message at end of the Act

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.

5. If the federal government appropriates additional funding under the federal child care and development block grant than was anticipated would be received for the state fiscal year beginning July 1, 2002, in addition to the notification requirements for expenditure requirements for additional federal funds under 2002 Iowa Acts, House File 2582, if enacted, the department shall consult with the chairpersons and ranking members of the joint appropriations subcommittee on human services at least thirty days in advance of committing to expenditure of the additional funding.*

*Sec. 110. 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, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

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

.....	\$	6,414,788
.....	FTEs	134.54

It is the intent of the general assembly that beginning in the fiscal year commencing on July 1, 2003, the Iowa juvenile home at Toledo will serve only females.

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

.....	\$	10,669,447
.....	FTEs	218.53

3. During the fiscal year beginning July 1, 2002, 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, 2002.

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.*

*Sec. 111. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

.....	\$	100,351,905
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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 division of 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 \$28,665,950 is allocated as the statewide expenditure target under section 232.143 for group foster care maintenance and services.

* Item veto; see message at end of the Act

b. If at any time after September 30, 2002, annualization of a service area's current expenditures indicates a service area is at risk of exceeding its group foster care expenditure target under section 232.143 by more than five percent, the department and juvenile court services shall examine all group foster care placements in that service area in order to identify those which might be appropriate for termination. In addition, any aftercare services believed to be needed for the children whose placements may be terminated shall be identified. The department and juvenile court services shall initiate action to set dispositional review hearings for the placements identified. In such a dispositional review hearing, the juvenile court shall determine whether needed aftercare services are available and whether termination of the placement is in the best interest of the child and the community.

c. (1) Of the funds appropriated in this section, not more than \$6,585,993 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 division of this Act for medical assistance.

d. Of the funds allocated in this subsection, \$1,370,127 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, 2002, 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 service area shall establish the plan in a manner so as to ensure the moneys allocated to the service area 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, 2002, state funding for shelter care paid pursuant to section 234.35, subsection 1, paragraph "h", shall be limited to \$7,120,382.

7. 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.

8. Federal funds received by the state during the fiscal year beginning July 1, 2002, 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.

9. The department and juvenile court services shall continue to develop criteria for the department service area 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.

10. Of the moneys appropriated in this section, not more than \$415,135 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.

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

12. Of the moneys appropriated in this section, up to \$2,924,183 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, 2002.

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

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

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

13. a. Of the funding appropriated in this section, \$2,927,602 is allocated to provide school-based supervision of children adjudicated under chapter 232, including not more than \$1,463,801 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. A portion of the cost of each school-based liaison officer shall be paid by the school district or other funding source as approved by the chief juvenile court officer.

14. The department shall maximize the capacity to draw federal funding under Title IV-E of the federal Social Security Act.

15. 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.

16. 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.

17. It is the intent of the general assembly that the department continue its practice of providing strong support for Iowa's nationally recognized initiative of decategorization of child welfare funding.

18. It is the intent of the general assembly that administration of the foster care and adoption programs be privatized.*

*Sec. 112. JUVENILE DETENTION HOME FUND. Moneys deposited in the juvenile detention home fund created in section 232.142 during the fiscal year beginning July 1, 2002, and

* Item veto; see message at end of the Act

ending June 30, 2003, are appropriated to the department of human services for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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, 2001. 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, 2001. Notwithstanding section 232.142, subsection 3, the financial aid payable by the state under that provision for the fiscal year beginning July 1, 2002, shall be limited to the amount appropriated for the purposes of this subsection.

2. For renewal of a grant to a county with a population between 168,000 and 175,000 for implementation of the county's runaway treatment plan under section 232.195:

..... \$ 80,000

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. 113. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the family support subsidy program:

..... \$ 1,979,994

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

2. Notwithstanding section 225C.38, subsection 1, the monthly family support payment amount for the fiscal year beginning July 1, 2002, shall remain the same as the payment amount in effect on June 30, 2002.*

*Sec. 114. 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, 2002, and ending June 30, 2003, 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):

..... \$ 43,582*

*Sec. 115. 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, 2002, and ending June 30, 2003, 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:

..... \$ 13,034,755
..... FTEs 227.65

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:

..... \$ 7,407,087
..... FTEs 126.15

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

..... \$ 16,924,466
..... FTEs 333.80

* Item veto; see message at end of the Act

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 division of this Act for medical assistance, revenues attributable to the PMIC beds described in this subsection for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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.

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:

.....	\$	5,464,038
.....	FTEs	100.07

a. Funding is provided in this subsection for the state 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, 2002, and ending June 30, 2003, 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.

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

5. Within the funds appropriated in this section, the department may transfer funds as necessary to best fulfill the needs of the institutes 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.*

* Item veto; see message at end of the Act

*Sec. 116. 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, 2002, and ending June 30, 2003, 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:*

..... \$ 2,218,967

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

..... \$ 1,495,985

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, 2002, 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*

* Item veto; see message at end of the Act

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 existing capacity limitations are reached in operating units, a waiting list is in effect for a service for which funding is available to provide the service, and facilities for the service can be provided within the available funding, a state resource center may open facilities and begin implementing the service during fiscal year 2002-2003.*

*Sec. 117. 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, 2002, and ending June 30, 2003, 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:

..... \$ 48,903

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. 118. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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

..... \$ 11,671,390

The general assembly encourages the department to continue discussions with the Iowa state association of counties and administrators of county central point of coordination offices regarding proposals for moving state cases to county budgets.*

*Sec. 119. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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

..... \$ 18,157,352

1. Of the funds appropriated in this section, \$18,127,352 shall be allocated to counties for funding of community-based mental health and developmental disabilities services. The monies shall be allocated to a county as follows:

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

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

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.

* Item veto; see message at end of the Act

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. 120. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For continuation of a pilot project for the personal assistance services program in accordance with this section:

..... \$ 161,473

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. In accordance with 2001 Iowa Acts, chapter 191, section 25, subsection 2, new applicants shall not be accepted into the pilot project. An individual receiving services under the pilot project as of June 30, 2002, shall continue receiving services until the individual voluntarily leaves the project or until another program with similar services exists.*

*Sec. 121. SEXUALLY VIOLENT PREDATORS. 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 costs associated with the commitment and treatment of sexually violent predators in the unit located at the state mental health institute at Cherokee, including costs of legal services and other associated costs, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... \$ 3,459,855

..... FTEs 44.00*

*Sec. 122. 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, 2002, and ending June 30, 2003, 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:

..... \$ 52,356,098

..... FTEs 1,920.00

* Item veto; see message at end of the Act

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

2. In implementing the transition from a regional system to the service area system established pursuant to 2001 Iowa Acts, Second Extraordinary Session, chapter 4, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the department shall utilize the service areas and service area administrators in lieu of regions and regional administrators, notwithstanding the references to department regions or regional administrators in sections 232.2, 232.52, 232.68, 232.72, 232.102, 232.117, 232.127, 232.143, 232.188, 234.35, and 237A.3A, or other provision in law. The department shall submit proposed legislation under section 2.16 for consideration by the Eightieth General Assembly, 2003 Session, to correct the references in the necessary Code sections.*

**Sec. 123. ADDITIONAL FEDERAL FUNDING — FISCAL YEAR 2002-2003.*

1. The provisions of this section are applicable for the fiscal year beginning July 1, 2002.

2. 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.

3. Additional federal financial participation secured for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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 received from medical assistance claims for child protection staff for 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 a portion of the additional federal financial participation 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.

4. The department may adopt emergency rules to implement the provisions of this section.*

**Sec. 124. ADDITIONAL FEDERAL FINANCIAL PARTICIPATION — FISCAL 2001-2002 AND FISCAL 2002-2003.* The first \$10 million of federal financial participation received under the section of this division of this Act providing for the department of human services' efforts to secure additional federal funding for FY 2002-2003 through Titles IV-E and XIX of the federal Social Security Act or from other efforts by the department of human services to draw additional federal financial participation associated with funds appropriated for child and family services in fiscal years 2001-2002 and 2002-2003 shall be used in those two fiscal years to offset

* Item veto; see message at end of the Act

reductions in federal financial participation for child welfare services due to changes in federal regulations or interpretations of federal regulations, changes in federal cost allocations or federal match provisions, or federal sanctions. The department may adopt emergency rules to implement the provisions of this section.*

*Sec. 125. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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

.....	\$	11,848,605
.....	FTEs	356.00

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. 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.

3. If the department proposes an amendment to a state plan for a program that is subject to federal approval and the amendment would have an effect on state appropriations, unless the amendment is adopted as a rule that has been reviewed and approved by the administrative rules review committee, the amendment shall not be submitted to the federal government for consideration unless the fiscal committee of the legislative council has adopted a motion recommending implementation of the amendment.*

*Sec. 126. VOLUNTEERS. 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:

.....	\$	112,033*
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*Sec. 127. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES.

1. a. Notwithstanding 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph "b", the modified price-based case-mix reimbursement rate upon which the reimbursement rate for nursing facilities is determined shall only include an additional inflation factor to the extent of the funding budgeted and appropriated specifically for nursing facility reimbursement based on a case-mix reimbursement methodology in this division of this Act or in other appropriations. 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, 2002, 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 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.

(3) The department of human services shall require recipients of medical assistance to pay the following copayment on each covered drug prescription, including each refill as follows:

(a) A copayment of \$1 for each covered generic drug prescription.

* Item veto; see message at end of the Act

(b) A copayment of \$1 for each covered brand-name drug prescription for which the cost to the state is less than \$25.

(c) A copayment of \$2 for each covered brand-name drug prescription for which the cost to the state is between \$25 and \$50.

(d) A copayment of \$3 for each covered brand-name drug prescription for which the cost to the state is over \$50.

c. For the fiscal year beginning July 1, 2002, reimbursement rates for inpatient and outpatient hospital services shall remain at the rates in effect on June 30, 2002. The department shall continue the outpatient hospital reimbursement system based upon ambulatory patient groups implemented pursuant to 1994 Iowa Acts, chapter 1186, section 25, subsection 1, paragraph "f". In addition, the department shall continue the revised medical assistance payment policy implemented pursuant to that paragraph to provide reimbursement for costs of screening and treatment provided in the hospital emergency room if made pursuant to the prospective payment methodology developed by the department for the payment of outpatient services provided under the medical assistance program. Any rebasing of hospital inpatient or outpatient rates shall not increase total payments for inpatient and outpatient services.

d. For the fiscal year beginning July 1, 2002, 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, 2002, reimbursement rates for home health agencies shall remain at the rates in effect on June 30, 2002.

f. For the fiscal year beginning July 1, 2002, 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, 2002, the reimbursement rates for dental services shall remain at the rates in effect on June 30, 2002.

h. Beginning July 1, 2002, the reimbursement rates for community mental health centers shall remain at the rates in effect on June 30, 2002.

i. For the fiscal year beginning July 1, 2002, the maximum reimbursement rate for psychiatric medical institutions for children shall remain at the rate in effect on June 30, 2002, based on per day rates for actual costs.

j. For the fiscal year beginning July 1, 2002, unless otherwise specified in this division of this Act, all noninstitutional medical assistance provider reimbursement rates shall remain at the rates in effect on June 30, 2002, 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 remain at the rate in effect on June 30, 2002.

2. For the fiscal year beginning July 1, 2002, the maximum cost reimbursement rate for residential care facilities reimbursed by the department shall not be less than \$25.92 per day for the time period of July 1, 2002, through December 31, 2002, and shall not be less than \$26.20 per day for the time period of January 1, 2003, through June 30, 2003. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall not be less than \$18.52 per day for the time period of July 1, 2002, through December 31, 2002, and shall not be less than \$18.72 per day for the time period of January 1, 2003, through June 30, 2003.

3. For the fiscal year beginning July 1, 2002, the maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall not be less than \$498.29 per month for the time period of July 1, 2002, through December 31, 2002, and shall not be less than \$503.67 per month for the time period of January 1, 2003, through June 30, 2003.

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, 2001.

5. Notwithstanding section 234.38, in the fiscal year beginning July 1, 2002, 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, 2002, the maximum reimbursement rates for social service providers shall remain at the rates in effect on June 30, 2002. However, the rates may be adjusted under any of the following circumstances:

a. If a new service was added after June 30, 2002, the initial reimbursement rate for the service shall be based upon actual and allowable costs.

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

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

8. For the fiscal year beginning July 1, 2002, the reimbursement rates for rehabilitative treatment and support services providers shall remain at the rates in effect on June 30, 2002.

9. For the fiscal year beginning July 1, 2002, 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, 2002, 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, 2002, 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 non-registered provider to become registered.

12. For the fiscal year beginning July 1, 2002, reimbursements for providers reimbursed by the department of human services may be modified if appropriated funding is allocated for that purpose from the senior living trust fund created in section 249H.4, or as specified in appropriations from the healthy Iowans tobacco trust created in section 12.65.

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

*Sec. 128. TRANSFER AUTHORITY. Subject to the provisions of section 8.39, for the fiscal year beginning July 1, 2002, 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 division of 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 combination with such moneys, the department of human services may transfer within or between any of the appropriations made in this division of 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.

* Item veto; see message at end of the Act

- 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. 129. FRAUD AND RECOUPMENT ACTIVITIES. During the fiscal year beginning July 1, 2002, 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 division of 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. 130. TARGETED CASE MANAGEMENT SERVICES FOR CHILDREN — FY 2001-2002. It is the intent of the general assembly that the department evaluate the documentation provisions implemented in fiscal year 2001-2002 for medical assistance claiming of targeted case management services for children who are at risk of maltreatment or who are in need of protective services. The purpose of the evaluation is for the department to ease the administrative burden on department staff by limiting the documentation requirement to those children known to be eligible or implementing other appropriate measures.

*Sec. 131. NEW SECTION. 249A.20A NURSING FACILITIES — DUAL CERTIFICATION REQUIRED.

Beginning October 1, 2002, all licensed nursing facilities shall be certified under both the federal Medicare program and the medical assistance program as a condition for participation in the medical assistance program. The department shall, in consultation with nursing facility provider organizations, adopt rules to establish criteria for individual exceptions to the dual certification requirement under this section.*

*Sec. 132. Section 252B.4, subsection 1, Code 2001, is amended to read as follows:

- 1. The director shall require an application fee of ~~five~~ twenty-five dollars.*

*Sec. 133. 2001 Iowa Acts, chapter 176, 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, 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
		<u>14,500,000</u>

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.*

* Item veto; see message at end of the Act

**Sec. 134. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES (MH/MR/DD) ALLOWED GROWTH FACTOR ADJUSTMENT AND ALLOCATIONS — DISTRIBUTION FOR FY 2002-2003.*

1. For the fiscal year beginning July 1, 2002, the moneys appropriated in 2001 Acts, chapter 176, section 1, as amended by this division of this Act, for distribution to counties of the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment, shall be distributed 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, as follows:

a. The first \$2,000,000 shall be credited to the risk pool created in the property tax relief fund and shall be distributed pursuant to section 426B.5, subsection 2.

b. The remaining \$12,500,000 shall be distributed as provided in this section.

2. The following formula amounts shall be utilized only to calculate preliminary distribution amounts for fiscal year 2002-2003 under this section by applying the indicated formula provisions to the formula amounts and producing a preliminary distribution total for each county:

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

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

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

..... \$ 12,492,712

c. For calculation of a distribution amount for counties from the mental health and developmental disabilities (MH/DD) community services fund in accordance with the formula provided in this division of this Act:

..... \$ 18,127,352

3. Notwithstanding any contrary provisions of sections 225C.7, 331.438, subsection 2, 331.439, subsection 3, and 426B.5, the moneys allocated for distribution in subsection 1, paragraph "b", and in any other Act of the Seventy-ninth General Assembly, 2002 Session, for distribution to counties in the fiscal year beginning July 1, 2002, 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 and as calculated under subsection 2 to produce preliminary distribution amounts for counties shall be subject to withholding as provided in this section.

4. After applying the applicable statutory distribution formulas to the amounts indicated in subsection 2 for purposes of formula calculations to produce preliminary distribution totals, the department of human services shall apply a withholding factor to adjust an eligible individual county's preliminary distribution total. An ending balance percentage for each county shall be determined by expressing the county's ending balance on a modified accrual basis under generally accepted accounting principles for the fiscal year beginning July 1, 2001, in the county's mental health, mental retardation, and developmental disabilities services fund created under section 331.424A, as a percentage of the county's gross expenditures from that fund for that fiscal year. The withholding factor for a county shall be the following applicable percent:

a. For an ending balance percentage of less than 10 percent, a withholding factor of 0 percent.

b. For an ending balance percentage of 10 through 24 percent, a withholding factor of 25 percent.

c. For an ending balance percentage of 25 through 34 percent, a withholding factor of 60 percent.

d. For an ending balance percentage of 35 through 44 percent, a withholding factor of 85 percent.

e. For an ending balance percentage of 45 percent or more, a withholding factor of 100 percent.

5. The total withholding amounts applied pursuant to subsection 4 shall be equal to a with-

* Item veto; see message at end of the Act

holding target amount of \$11,992,712 and the appropriation made in this division of this Act for the MH/DD community services fund and the appropriation made in 2001 Iowa Acts, chapter 176, section 1, as amended by this division of this Act shall be reduced by the amount necessary to attain the withholding target amount. If the department of human services determines that the amount to be withheld in accordance with subsection 4 is not equal to the target withholding amount, the department shall adjust the withholding factors listed in subsection 4 as necessary to achieve the withholding target amount. However, in making such adjustments to the withholding factors, the department shall strive to minimize changes to the withholding factors for those ending balance percentage ranges that are lower than others and shall not adjust the zero withholding factor specified in subsection 4, paragraph "a".

6. A county must comply with the December 1, 2002, filing deadline for the county annual financial report in accordance with section 331.403. 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.

7. The department of human services shall authorize the issuance of warrants payable to the county treasurer for the distribution amounts due the counties eligible under this section and notwithstanding prior practice for the MH/DD community services fund, the warrants shall be issued in January 2003.*

Sec. 135. EMERGENCY RULES. If specifically authorized by a provision of this division 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 or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this section, notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph "b". Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

*Sec. 136. REPORTS.

1. Any reports or information required to be compiled and submitted under this division of this Act shall be submitted to the chairpersons and ranking members of the joint appropriations subcommittee on 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.

2. In order to reduce mailing and paper processing costs, the department shall provide, to the extent feasible, reports, notices, minutes, and other documents by electronic means to those persons who have the capacity to access the documents in that manner.*

*Sec. 137. LAW INAPPLICABLE FOR FISCAL YEAR 2002-2003.

1. The following provisions in Code or rule shall be suspended for the period beginning July 1, 2002, and ending June 30, 2003:

a. The requirements of section 239B.2A, relating to school attendance by children participating in the family investment program.

b. For a case permanency plan, as defined in section 232.2, the requirement for a six-month case permanency plan review for an intact family. In addition, the department of human services may implement a shortened case permanency plan format tailored to meet compliance issues.

c. The requirements of section 225C.42, relating to an annual evaluation of the family support subsidy program.

* Item veto; see message at end of the Act

2. The department may adopt emergency rules to implement the provisions of this section.*

Sec. 138. MEDICAL ASSISTANCE PROGRAM — REPAYMENT OF SENIOR LIVING TRUST FUND FOR FY 2001-2002. If moneys appropriated for the medical assistance program for the fiscal year beginning July 1, 2001, and ending June 30, 2002, from the general fund of the state, the tobacco settlement trust fund, the healthy Iowans tobacco trust fund, the senior living trust fund, and the hospital trust fund are in excess of actual expenditures for the medical assistance program and remain available at the close of the fiscal year, the excess moneys in an amount not to exceed the amount appropriated from the senior living trust fund for the medical assistance program for the fiscal year beginning July 1, 2001, which have not otherwise been repaid, shall be transferred to the senior living trust fund created in section 249H.4.

Sec. 139. MEDICAL ASSISTANCE PROGRAM — REPAYMENT OF SENIOR LIVING TRUST FUND FOR FY 2002-2003. If moneys appropriated for the medical assistance program for the fiscal year beginning July 1, 2002, and ending June 30, 2003, from the general fund of the state, the tobacco settlement trust fund, the healthy Iowans tobacco trust fund, the senior living trust fund, and the hospital trust fund are in excess of actual expenditures for the medical assistance program and remain available at the close of the fiscal year, the excess moneys, not to exceed the amount appropriated from the senior living trust fund for the medical assistance program for the fiscal years beginning July 1, 2001, and July 1, 2002, which have not otherwise been repaid, shall be transferred to the senior living trust fund created in section 249H.4.

*Sec. 140. EFFECTIVE DATES. The following provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The provision under the appropriation for child and family services, relating to requirements of section 232.143 for representatives of the department of human services and juvenile court services to establish a plan for continuing group foster care expenditures for the 2002-2003 fiscal year.
2. The provision under the appropriation for child and family services, relating to the state court administrator determining allocation of court-ordered services funding by June 15, 2002.
3. The provision relating to the evaluation of documentation for targeted case management services for children in fiscal year 2001-2002.
4. The provision relating to obtaining additional federal financial participation for fiscal year 2001-2002 and fiscal year 2002-2003.
5. The provision relating to repayment of the senior living trust fund for fiscal year 2001-2002.
6. The provision enacting new section 249A.20A relating to dual certification of nursing facilities.*

DIVISION VII
JUSTICE SYSTEM

*Sec. 141. 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, 2002, and ending June 30, 2003, 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:

.....	\$	7,143,891
.....	FTEs	200.48

2. For the prosecuting attorney training program for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	272,819
.....	FTEs	6.00

* Item veto; see message at end of the Act

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, 2002, and ending June 30, 2003, 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, 2002, and ending June 30, 2003, 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 and for not more than the following full-time equivalent positions:

.....	\$	1,711,189
.....	FTEs	2.00

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:

.....	\$	118,451
.....	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 22.0 FTEs and to provide maintenance for the victim compensation functions of the department of justice.

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. a. The department of justice, in submitting budget estimates for the fiscal year commencing July 1, 2003, 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, 2001, and actual and expected reimbursements for the fiscal year commencing July 1, 2002.

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, 2003.

10. For legal services for persons in poverty grants as provided in section 13.34:

..... \$ 593,910

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, 2003, 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. 142. 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, 2002, and ending June 30, 2003, 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. 143. 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, 2002, and ending June 30, 2003, 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:

..... \$ 2,443,903
..... FTEs 33.00*

*Sec. 144. 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, 2002, and ending June 30, 2003, 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:

..... \$ 32,168,605
..... FTEs 543.69

It is the intent of the general assembly to operate a special needs unit at the Fort Madison correctional facility at a capacity of 200 beds when funding constraints are eliminated.

* Item veto; see message at end of the Act

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:

.....	\$	23,786,629
.....	FTEs	379.75

Moneys are provided within this appropriation for one full-time substance abuse counselor 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:

.....	\$	21,497,363
.....	FTEs	328.50

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:

.....	\$	22,538,275
.....	FTEs	371.25

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:

.....	\$	21,161,133
.....	FTEs	330.56

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:

.....	\$	7,268,049
.....	FTEs	110.00

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:

.....	\$	18,326,306
.....	FTEs	291.76

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:

.....	\$	12,024,416
.....	FTEs	215.50

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:

.....	\$	24,379,674
.....	FTEs	395.00

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:

.....	\$	674,954
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k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

.....	\$	241,293
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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. 145. 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, 2002, and ending June 30, 2003, 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:

.....	\$	2,666,224
.....	FTEs	42.18

Notwithstanding section 904.108, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the correctional training center need not be maintained at the Mount Pleasant correctional facility.

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, 2002, for the privatization of services performed by the department using state employees as of July 1, 2002, 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 employment 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

* Item veto; see message at end of the Act

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 educational programs for inmates at state penal institutions:

..... \$ 100,000

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.

The director of the department of corrections may transfer moneys from Iowa prison industries for use in educational programs for inmates.

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.

3. For the development of the Iowa corrections offender network (ICON) data system:

..... \$ 427,700

4. 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, 2003, 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.

5. 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, 2002, 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, 2002, 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.

6. The department of corrections shall submit a report to the general assembly by January

1, 2003, concerning moneys recouped from inmate earnings for the reimbursement of operational expenses of the applicable facility during the fiscal year beginning July 1, 2001, 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. 146. 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, 2002, and ending June 30, 2003, 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:

..... \$ 8,953,795

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:

..... \$ 6,992,061

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:

..... \$ 4,073,638

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:

..... \$ 3,854,236

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:

..... \$ 11,702,787

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:

..... \$ 8,965,564

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:

..... \$ 5,125,593

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:

..... \$ 5,097,521

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.

* Item veto; see message at end of the Act

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. 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, 2002.

7. 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.

8. 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 members of the joint appropriations subcommittee on the justice system, and to the legislative fiscal bureau by January 15, 2003. The report shall include a description of the program at each intermediate sanction level or sublevel of the corrections continuum within each district plan, and the number of offenders placed at each intermediate sanction level or sublevel in each district for the previous fiscal year, and the current fiscal year as of March 1. The report shall also include the personal characteristics of each offender, including the offender's race, gender, and age, and the offender's placement on the corrections continuum. The number of FTEs working in positions related to the corrections continuum shall also be included in the report.

9. 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. 147. 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, 2003.

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, 2003, 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, 2003. The report shall specifically address the progress the department has made in implementing the requirements

* Item veto; see message at end of the Act

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, 2002. 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. 148. 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 departments, 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, 2003, 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, 2001, and ending June 30, 2002.*

**Sec. 149. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, for the purposes designated:

..... \$ 33,908,325

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:

..... \$ 15,770,739
..... 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:

..... \$ 18,137,586*

**Sec. 150. 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, 2002, and ending June 30, 2003, 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:

..... \$ 1,256,199
..... 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 depos-

* Item veto; see message at end of the Act

ited in the depreciation fund to the credit of the department of public safety, division of the Iowa state patrol.*

**Sec. 151. 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, 2002, and ending June 30, 2003, 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:

.....	\$	986,636
.....	FTEs	16.00*

**Sec. 152. 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, 2002, and ending June 30, 2003, 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:

.....	\$	5,462,416
.....	FTEs	285.89

If there is a surplus in the general fund of the state for the fiscal year ending June 30, 2003, 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:

.....	\$	1,077,354
.....	FTEs	25.25*

***Sec. 153. 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, 2002, and ending June 30, 2003, 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:

.....	\$	1,027,503
.....	FTEs	105.00

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". Such rates shall be established in a manner to minimize any subsidy provided through state general fund appropriations.**

**Sec. 154. 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, 2002, and ending June 30, 2003, 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:

.....	\$	2,491,284
.....	FTEs	38.50

* Item veto; see message at end of the Act

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:

.....	\$	12,618,393
.....	FTEs	231.50

Riverboat enforcement costs shall be billed in accordance with section 99F.10, subsection 4, and section 99F.10A. 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, 2002, and one special agent for each racing facility which becomes operational during the fiscal year which begins July 1, 2002. 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:

.....	\$	3,552,763
.....	FTEs	58.00

b. For the division of narcotics enforcement for undercover purchases:

.....	\$	129,155
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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:

.....	\$	1,861,393
.....	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:

.....	\$	599,110
.....	FTEs	12.00

5. a. 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:

.....	\$	37,769,240
.....	FTEs	545.00

b. District 16, 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:

.....	\$	1,298,828
.....	FTEs	26.00

6. For deposit in the public safety law enforcement sick leave benefits fund established under section 80.42, for all departmental employees eligible to receive benefits for accrued sick leave under the collective bargaining agreement:

.....	\$	285,258
-------	----	---------

7. An employee of the department of public safety who retires after July 1, 2002, but prior to June 30, 2003, 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.

8. For costs associated with the training and equipment needs of volunteer fire fighters and for not more than the following full-time equivalent position:

.....	\$	570,498
.....	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.*

Sec. 155. POSTING OF REPORTS IN ELECTRONIC FORMAT — LEGISLATIVE FISCAL BUREAU. All reports or copies of reports required to be provided to the legislative fiscal bureau in this division for the fiscal year beginning July 1, 2002, shall be provided in an electronic format. The legislative fiscal bureau shall post the reports on its internet site and shall notify by electronic means all the members of the joint appropriations subcommittee on the justice system when a report is posted. Upon request, copies of the reports may be mailed to members of the joint appropriations subcommittee on the justice system.

*Sec. 156. NEW SECTION. 99D.14A PAYMENT OF THE DIVISION OF CRIMINAL INVESTIGATION COSTS.

A licensee shall pay a fee in an amount representing twenty percent of the salary costs of the division of criminal investigation of the department of public safety plus any amount over thirty thousand dollars in direct and indirect support costs, in addition to that assessed under section 99D.14, subsection 7, for enforcement of this chapter. The fees assessed in this section shall be deposited in the general fund of the state.*

*Sec. 157. Section 99F.4A, subsection 8, Code 2001, is amended to read as follows:

8. A licensee shall pay a fee in an amount representing ~~eighty~~ one hundred percent of the salary and other related costs of the division of criminal investigation of the department of public safety for enforcement of this chapter.*

*Sec. 158. NEW SECTION. 99F.10A PAYMENT OF THE DIVISION OF CRIMINAL INVESTIGATION COSTS.

A licensee shall pay twenty percent of the division's salary costs for special agents and twenty percent of the division's salary costs for gaming enforcement plus any amount over \$125,000 in direct and indirect support costs, in addition to that assessed under section 99F.10, subsection 4. The costs assessed in this section shall be deposited in the general fund of the state.*

*Sec. 159. 1998 Iowa Acts, chapter 1101, section 15, subsection 2, as amended by 1999 Iowa Acts, chapter 202, section 25, as amended by 2000 Iowa Acts, chapter 1229, section 25, and as amended by 2001 Iowa Acts, chapter 186, section 21, 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, ~~2002~~ 2003, 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".

* Item veto; see message at end of the Act

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, ~~2002~~ 2003, 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. 160. 2001 Iowa Acts, chapter 186, section 6, subsection 6, is amended by striking the subsection.

Sec. 161. EFFECTIVE DATE. The section of this Act striking 2001 Iowa Acts, chapter 186, section 6, subsection 6, being deemed of immediate importance, takes effect upon enactment.

Sec. 162. EFFECTIVE DATE. The section of this Act amending 1998 Iowa Acts, chapter 1101, section 15, as amended, being deemed of immediate importance, takes effect upon enactment.

DIVISION VIII
JUDICIAL BRANCH

*Sec. 163. JUDICIAL BRANCH. There is appropriated from the general fund of the state to the judicial branch 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 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, 2002, and maintenance, equipment, and miscellaneous purposes:

..... \$ 111,356,002

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

* Item veto; see message at end of the Act

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 legislative fiscal bureau by January 15, 2003, 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 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, 2003, 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 5, during the fiscal year beginning July 1, 2001, and ending June 30, 2002, and the plans for expenditures from each fund during the fiscal year beginning July 1, 2002, and ending June 30, 2003. A copy of the report shall be provided to the legislative fiscal bureau.

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. 164. 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, 2002, and ending June 30, 2003, 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 15.2 percent of the basic salaries of the judges covered under chapter 602, article 9:

..... \$ 3,039,664*

Sec. 165. POSTING OF REPORTS IN ELECTRONIC FORMAT — LEGISLATIVE FISCAL BUREAU. All reports or copies of reports required to be provided by the judicial branch for fiscal year 2002-2003 to the legislative fiscal bureau shall be provided in an electronic format. The legislative fiscal bureau shall post the reports on its internet site and shall notify by electronic means all the members of the joint appropriations subcommittee on the justice system when a report is posted. Upon request, copies of the reports may be mailed to members of the joint appropriations subcommittee on the justice system.

*Sec. 166. CLERK OF COURT — STUDY COMMITTEE. The supreme court shall establish a study committee for the purpose of providing findings and recommendations to the court in order for the court to submit a report to the general assembly by December 15, 2002, regarding the efficient operation and management of the clerks of courts offices in every county of the state. The study committee shall include representatives of key court stakeholder groups including but not limited to, members of the general public, legislators, county and city officials, court employees, clerks of court, judges, and attorneys representing both urban and rural areas of the state. The court shall include interested associations and public agencies who request the opportunity to have input into the work of the study committee. The committee shall issue a report to the court which includes the committee's findings and recommendations of how to improve the operation and management of clerk of court offices under the present statutory

* Item veto; see message at end of the Act

framework of one clerk of court office per county. The supreme court shall submit its report to the general assembly after consideration of the study committee's findings and recommendations.*

Sec. 167. APPOINTMENT OF CLERK OF COURT. Up until such time the supreme court submits its clerk of court study committee report to the general assembly and notwithstanding section 602.1215, the appointment of a clerk of the district court shall not occur unless the state court administrator approves the appointment.

DIVISION IX
STANDING APPROPRIATIONS — REDUCTIONS

Sec. 168. GENERAL ASSEMBLY. The appropriations made pursuant to section 2.12 for the expenses of the general assembly and legislative agencies for the fiscal year beginning July 1, 2002, and ending June 30, 2003, are reduced by the following amount:
..... \$ 744,947²³

Sec. 169. 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, 2002, and ending June 30, 2003, is reduced by the following amount:
..... \$ 2,500,000²⁴

Sec. 170. 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, 2002, and ending June 30, 2003, is reduced by the following amount:
..... \$ 2,565

Sec. 171. AT-RISK CHILDREN PROGRAMS. Notwithstanding the standing appropriation in section 279.51, subsection 1, the amount appropriated from the general fund of the state under section 279.51, subsection 1, to the department of education for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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. 172. 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, 2002, and ending June 30, 2003, is reduced by the following amount:
..... \$ 11,750,000²⁵

Sec. 173. INTERSTATE EXTRADITION EXPENSE. Notwithstanding the standing appropriation in section 820.24, the amount appropriated from the general fund of the state under section 820.24, to pay expenses of interstate extradition for the fiscal year beginning July 1, 2002, and ending June 30, 2003, is reduced by the following amount:
..... \$ 155

Sec. 174. DEFERRED COMPENSATION PROGRAM. Notwithstanding the standing appropriation to fund the state's deferred compensation program established for state employees under section 509A.12, the amount appropriated from the general fund of the state for the deferred compensation program for the fiscal year beginning July 1, 2002, and ending June 30, 2003, is reduced by the following amount:
..... \$ 190,640

* Item veto; see message at end of the Act

²³ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §179, 192, 219 herein

²⁴ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §180, 192 herein

²⁵ See chapter 1175, §110 herein

STANDING APPROPRIATIONS — LIMITATIONS

Sec. 175. Notwithstanding the standing appropriations in the following designated sections for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the amounts appropriated from the general fund of the state pursuant to those sections for the following designated purposes shall not exceed the following amounts:

1. For compensation of officers and enlisted persons and their expenses while on active state service as authorized in section 29A.27:

..... \$ 432,450

2. For payment for nonpublic school transportation under section 285.2:
..... \$ 7,799,550

If total approved claims for reimbursement for nonpublic school pupil transportation claims exceed the amount appropriated in this section,²⁶ the department of education shall prorate the amount of each claim.

3. For administration expenses of the state unemployment compensation law under section 96.7:

..... \$ 353,000

4. For payment of certain interest costs due the federal government under the Federal Cash Management and Improvement Act under section 421.31:

..... \$ 568,458

5. For printing cigarette tax stamps under section 453A.7:
..... \$ 110,055

6. For the personal property tax replacement program under section 405A.8:
..... \$ 52,251,176

7. For the payment of franchise tax allocations to cities and counties under section 405A.10:
..... \$ 8,168,952

8. For the state's share of the cost of the peace officers retirement benefits under section 411.20:

..... \$ 2,816,189

9. For payment of livestock production credit refunds under section 422.121:
..... \$ 1,856,580

10. For reimbursement for the homestead property tax credit under section 425.1:
..... \$ 107,960,127

11. For reimbursement for the agricultural land and family farm tax credits under section 426.1:

..... \$ 36,296,139²⁷

12. For reimbursement for the military service tax credit under section 426A.1A:
..... \$ 2,569,712

13. For industrial machinery, equipment, and computers property tax replacement claims under section 427B.19A:

..... \$ 20,990,800

14. For public transit assistance pursuant to chapter 324A under section 312.2, subsection 14:

..... \$ 8,669,871²⁸

Sec. 176. ELDERLY AND DISABLED CREDIT. Notwithstanding the standing appropriation in section 425.39, the amount appropriated from the general fund of the state under section 425.39, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, for purposes of implementing the elderly and disabled credit and reimbursement portion of the extraordinary property tax and reimbursement division of chapter 425, shall not exceed \$16,152,246.²⁹ The director shall pay, in full, all claims to be paid during the fiscal year beginning July 1, 2002, for reimbursement of rent constituting property taxes paid. If the amount of claims for credit for property taxes due to be paid during the fiscal year beginning July 1, 2002, exceeds the

²⁶ See chapter 1175, §98 herein

²⁷ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §181, 192 herein

²⁸ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §183, 192 herein

²⁹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §182, 192 herein

amount remaining after payment to renters, the director of revenue and finance shall prorate the payments to the counties for the property tax credit. In order for the director to carry out the requirements of this section, notwithstanding any provision to the contrary in sections 425.16 through 425.39, claims for reimbursement for rent constituting property taxes paid filed before May 1, 2003, shall be eligible to be paid in full during the fiscal year ending June 30, 2003, and those claims filed on or after May 1, 2003, shall be eligible to be paid during the fiscal year beginning July 1, 2003, and the director is not required to make payments to counties for the property tax credit before June 15, 2003.

REVENUE ADJUSTMENTS — TRANSFERS

Sec. 177. IOWA ECONOMIC EMERGENCY AND RESERVE FUNDS — EARNINGS. Notwithstanding section 8.55, subsection 4, and section 8.56, subsection 1, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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. 178. TITLE GUARANTY FUND. Notwithstanding section 16.91, subsection 1, there is transferred from the title guaranty fund created pursuant to section 16.91, subsection 1, to the general fund of the state during the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount:

..... \$ 2,700,000

Sec. 179. INNOVATIONS FUND. Notwithstanding section 8.63, there is transferred from the innovations fund created in section 8.63, for the purpose of stimulating and encouraging innovation in state government, to the general fund of the state for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount:

..... \$ 400,000

Sec. 180. UNDERGROUND STORAGE TANK FUND. Notwithstanding section 455G.3, subsection 1, there is transferred from the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, subsection 1, to the general fund of the state during the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount:

..... \$ 10,000,000

Sec. 181. WASTE TIRE MANAGEMENT FUND. Notwithstanding section 455D.11C, there is transferred from the waste tire management fund created in section 455D.11C, for waste tire management, to the general fund of the state for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount:

..... \$ 1,600,000

Sec. 182. Section 256D.5, subsection 2, Code 2001, is amended by striking the subsection.

Sec. 183. Sections 256D.6, 256D.7, and 256D.8, Code Supplement 2001, are repealed.

Approved May 10, 2002, with exceptions noted.

THOMAS J. VILSACK, Governor

Dear Secretary Culver:

I hereby transmit Senate File 2326, an Act making, reducing, and transferring appropriations, and providing for other properly related matters and including effective dates.

Since the Legislature approved this bill, there has been a dramatic change in the State's revenue projections. Most states and the federal government experienced a large reduction in final pay income tax returns and a correspondingly large increase in taxpayers due refunds. Because of this change in circumstance, I asked the State's Revenue Estimating Conference (REC) to meet to review their official revenue estimate for both fiscal years 2002 and 2003.

On May 7th, the REC met and decreased general fund resources available to the State by \$205.5 million in fiscal year 2002 and \$220.1 million in fiscal year 2003. By law, both the governor and the legislature must rely on the REC estimate in preparing and approving the state budget.

While I am concerned about many details within this bill, there is a larger, more fundamental concern that prevents me from approving the majority of this bill. Due to recent action by the REC in lowering revenue projections, signing this bill would enact a general fund budget for fiscal year 2003 that results in a general fund deficit of more than \$200 million and would be an irresponsible action. I cannot and will not do so.

At the same time, we cannot go back on our commitment to our children and families. Education at all levels is the number one priority in Iowa. To build on progress in student achievement, reduced class sizes, and job and wealth creation, we must have an educated workforce, and we must use our colleges and universities as an engine for economic growth. Even as we work to cut budgets, we must do all we can to preserve our commitment to education and maintain the educational opportunities for our children.

To help ensure this educational commitment, I am approving Division IV, Sections 76 through 86, the education portion of Senate File 2326 with the noted exceptions. While it falls short of my original goals for funding, given our current fiscal realities, it is likely the best investment we can make at this time. We will continue to work for additional resources in education through achieving savings and efficiencies in government. In the end, however, we must look to our educated workforce and our colleges and universities to be a catalyst for economic growth in our state. In the long run, education is the key to Iowa's economic prosperity.

In order for our children to have the best opportunities available to them, they must also have adequate access to health care. Iowa has the distinction of being the top performing state in the nation according to The Social Health of the States, conducted by the Fordham Institute for Innovation in Social Policy. In an effort to continue the progress we have made in ensuring every child receives the medical attention they need I am approving Section 106, which provides funding for the Healthy and Well Kids in Iowa (HAWK-I) program. In a nation as wealthy as ours, no child should be left out.

Senate File 2326 is, therefore, signed on this date with the following exceptions, which I hereby disapprove.

I am unable to approve Division I, Sections 1 through 33; Division II, Sections 34 through 45; Division III, Sections 46 through 75; Division V, Sections 87 through 98; Division VI, Sections 99 through 105 and Sections 107 through 140; Division VII, Sections 141 through 162; Division VIII, Sections 163 through 167. This action is necessary as a result of the REC's lowering the revenue estimates. I intend to work with lawmakers in a special session this month to take responsible action to reduce spending, reallocate existing resources, and balance this budget.

I am unable to approve Section 79, subsection 15, paragraph 2. This paragraph states that it is the intent of the general assembly to cease providing assistance for the Jobs for America's Graduates (JAG) program on June 30, 2003. This is a valuable program that provides direct services to the most at-risk juniors and seniors in local school districts through direct intervention. These students are worked with intensively to ensure that they graduate and are successful in obtaining a job or enrolling in postsecondary training. It is our duty to provide the tools to enable all students to succeed.

I am unable to approve Section 79, subsection 16, paragraph 2. This paragraph states that it is the intent of the general assembly to cease providing assistance for the Americorps After-School Initiative on June 30, 2003. Americorps is an after-school program aimed at middle school students located in schools with high rates of juvenile crime, violence and drug abuse. This is an important tool in linking people across Iowa willing to volunteer to improve a child's life.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 2326 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, Governor

CHAPTER 1172

SENIOR LIVING AND HOSPITAL TRUST FUNDS APPROPRIATIONS

H.F. 2613

AN ACT relating to and making appropriations from the senior living trust fund to the department of elder affairs and the department of human services and making appropriations from the hospital trust fund to the department of human services and providing effective dates and providing for retroactive applicability.

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

Section 1. DEPARTMENT OF ELDER AFFAIRS APPROPRIATION — SENIOR LIVING TRUST FUND. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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

.....	\$	6,553,967
.....	FTEs	8.00

Sec. 2. DEPARTMENT OF HUMAN SERVICES APPROPRIATION — SENIOR LIVING TRUST FUND. 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, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. 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:

.....	\$	21,733,406 ³⁰
.....	FTEs	5.00

2. To implement nursing facility provider reimbursements as provided in this subsection:

.....	\$	29,950,000
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a. Notwithstanding the provision in 2002 Iowa Acts, Senate File 2326,³¹ if enacted, relating to the reimbursement rate for nursing facilities under the medical assistance program, for the fiscal year beginning July 1, 2002, nursing facilities shall instead be reimbursed under the medical assistance program in accordance with this subsection.

b. Notwithstanding 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph "b", nursing facilities shall be reimbursed at the rate in effect on June 30, 2002.

c. Of the moneys appropriated in this subsection, \$3,000,000 shall be used to provide nursing facilities a supplemental payment, in addition to the reimbursement rate provided under paragraph "b". The supplemental payment to nursing facilities shall be determined by the department of human services, in consultation with representatives of nursing facilities and the vendor under contract with the department to develop and implement the modified price-based case-mix reimbursement system. The additional payment amount may be determined in accordance with 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph "b", or may be determined on an alternative basis.

d. 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.

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

4. Notwithstanding section 8.33, moneys committed to grantees under contract to provide for conversion to assisted living programs or for development of long-term care alternatives that remain unexpended at the close of the fiscal year shall not revert to any fund but shall remain available for expenditure for purposes of the contract during the succeeding fiscal year.

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, 2002, the department shall give greater weight in the scoring methodology to nursing facility conversion projects that are primarily for the renovation and remodeling of the existing nursing facility structure and give less weight to conversion projects that are primarily for 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. The department of elder affairs shall 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. NURSING FACILITY CONVERSION GRANTS — MORATORIUM. Nursing facility conversion grants as described in section 249H.6 shall not be awarded during the period beginning April 1, 2002, and ending June 30, 2003. A nursing facility that has completed a

³⁰ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §191, 192 herein

³¹ Chapter 1171 herein

feasibility study prior to April 1, 2002, shall be eligible for a nursing facility conversion grant beginning July 1, 2003.

Sec. 5. DEPARTMENT OF HUMAN SERVICES APPROPRIATION — HOSPITAL TRUST FUND. There is appropriated from the hospital trust fund created in section 249I.4 to the department of human services for the fiscal year beginning July 1, 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 the medical assistance appropriation:
..... \$ 12,000,000

Sec. 6. 2001 Iowa Acts, chapter 192, section 2, subsection 1, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, moneys committed to grantees under contract pursuant to this subsection that remain unexpended at the close of the fiscal year shall not revert to any fund but shall remain available for purposes of the contract during the succeeding fiscal year.

Sec. 7. EFFECTIVE DATE. Section 6 of this Act amending 2001 Iowa Acts, chapter 192, being deemed of immediate importance, takes effect upon enactment.

Sec. 8. EFFECTIVE DATE RETROACTIVE APPLICABILITY. Section 4 of this Act, relating to a nursing facility conversion grants moratorium, being deemed of immediate importance, takes effect upon enactment, and is retroactively applicable to April 1, 2002.

Approved May 10, 2002

CHAPTER 1173

TOBACCO SETTLEMENT, INFRASTRUCTURE, AND ENVIRONMENT FIRST FUNDS — APPROPRIATIONS AND MISCELLANEOUS RELATED CHANGES

H.F. 2614

AN ACT relating to and making appropriations to state departments and agencies from the tobacco settlement trust fund, rebuild Iowa infrastructure fund, and environment first fund, making related statutory changes, and providing effective dates.

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

DIVISION I TOBACCO SETTLEMENT TRUST FUND

Section 1. 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 period beginning July 1, 2002, and ending June 30, 2006, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. STATE BOARD OF REGENTS
a. For construction of a new business college building at Iowa state university of science and technology:
FY 2002-2003 \$ 6,700,000

FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
b. For improvements to the lakeside laboratory:		
FY 2002-2003	\$	390,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
c. For construction of an addition to McCollum science hall at the university of northern Iowa:		
FY 2002-2003	\$	8,400,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
d. For utility system replacement at the Iowa school for the deaf:		
FY 2002-2003	\$	250,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
e. For tuck-pointing at the Iowa school for the deaf:		
FY 2002-2003	\$	185,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
f. For upgrading the heating, ventilation, and air-conditioning system at the Iowa braille and sight saving school:		
FY 2002-2003	\$	450,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
g. For construction of the livestock infectious disease isolation facility at Iowa state university of science and technology:		
FY 2002-2003	\$	2,797,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
h. For the completion of construction of scientific laboratories within the Roy Carver facility at the plant sciences institute at Iowa state university of science and technology:		
FY 2002-2003	\$	4,148,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
i. For continued renovation of the biological sciences facility at the state university of Iowa:		
FY 2002-2003	\$	3,000,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
j. For planning, design, and construction of a journalism building at the state university of Iowa:		
FY 2002-2003	\$	2,600,000
FY 2003-2004	\$	7,200,000
FY 2004-2005	\$	3,575,000
FY 2005-2006	\$	0

k. For planning, design, and construction of an innovative teaching center at the university of northern Iowa:

FY 2002-2003	\$	1,730,000
FY 2003-2004	\$	6,490,000
FY 2004-2005	\$	9,880,000
FY 2005-2006	\$	0

l. For planning, design, and construction of additional undergraduate classrooms and renovation of auditoriums at Iowa state university of science and technology:

FY 2002-2003	\$	2,112,100
FY 2003-2004	\$	10,177,300
FY 2004-2005	\$	1,949,100
FY 2005-2006	\$	0

m. For phase I of construction of the art building at the state university of Iowa:

FY 2002-2003	\$	7,910,000
FY 2003-2004	\$	3,653,000
FY 2004-2005	\$	0
FY 2005-2006	\$	0

n. For upgrading the steam distribution system at the university of northern Iowa:

FY 2002-2003	\$	4,320,000
FY 2003-2004	\$	4,390,000
FY 2004-2005	\$	0
FY 2005-2006	\$	0

The state board of regents is authorized to enter into contracts for the full cost of carrying out the projects listed in paragraphs "j" through "n", 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.

2. DEPARTMENT OF CORRECTIONS

a. For installation of security fencing at correctional institutions in the state:

FY 2002-2003	\$	3,523,850
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

b. 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:

FY 2002-2003	\$	2,000,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

c. For construction of a 170-bed facility at the Iowa medical and classification center at Oakdale:

FY 2002-2003	\$	4,100,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

3. DEPARTMENT OF ECONOMIC DEVELOPMENT

a. 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":

FY 2002-2003	\$	2,500,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

The moneys appropriated in this paragraph "a" for FY 2002-2003 shall be allocated equally among the community colleges in the state. If any portion of the equal allocation to a commu-

nity college is not obligated or encumbered by April 1, 2003, the unobligated and unencumbered portions shall be available for use by other community colleges.

b. To provide a grant for construction of, and purchasing of equipment for, a facility to be used exclusively for processing novel proteins from agricultural products for pharmaceutical, nutraceutical, or chemical applications:

FY 2002-2003	\$	3,268,696
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

The moneys appropriated in this paragraph "b" shall comprise no more than 15 percent of the total costs of construction of, and purchasing equipment for, the facility.

3A. IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION

For conversion of the Iowa communications network to asynchronous transfer mode technology:

FY 2002-2003	\$	5,000,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

The appropriation in this subsection is contingent upon certification of the Iowa communications network by the federal government as a defense security network test bed. The Iowa telecommunications and technology commission shall notify the Code editor and the department of management upon such certification.

3B. DEPARTMENT OF EDUCATION

For allocation to the public broadcasting division for costs of installation of digital television at Iowa public television facilities, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

FY 2002-2003	\$	1,000,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

4. 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:

FY 2002-2003	\$	15,750,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

(1) Of the amount appropriated in this paragraph "a" for FY 2002-2003, 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 12E.12, subsection 1, paragraph "b", subparagraph (1).

(2) Of the amount appropriated in this paragraph "a" for FY 2002-2003, \$200,000 may be used for costs associated with the vertical infrastructure program, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1).

(3) Of the amount appropriated in this paragraph "a" for FY 2002-2003, up to \$1,350,000 may be used for the renovation and furnishing of space necessary to meet the capacity needs of the department of human services unit for the civil commitment of sexually violent predators, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1).

b. For demolition of the micrographics building, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

FY 2002-2003	\$	170,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

c. For improvements to the capitol complex security system, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

FY 2002-2003	\$	1,000,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

A portion of the amount appropriated in this paragraph "c" for FY 2002-2003 shall be used for the purchase and installation of security cameras and expansion of the electronic door locking system in the capitol.

d. For capitol interior restoration:

FY 2002-2003	\$	2,700,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

e. For improvements to and redesign of parking lots on the capitol complex:

FY 2002-2003	\$	93,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

f. For the planning and design of the renovation of the records center:

FY 2002-2003	\$	1,600,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

g. For costs associated with the renovation of the northeast quadrant of the capitol:

FY 2002-2003	\$	5,000,000
FY 2003-2004	\$	6,239,000
FY 2004-2005	\$	0
FY 2005-2006	\$	0

The legislative council shall approve all plans for the renovation of the northeast quadrant of the capitol prior to the department's receipt of bids for the renovation.

h. For planning, design, and construction of an expansion of the parking structure being built at the northwest corner of the intersection of Grand and Pennsylvania avenues in Des Moines:

FY 2002-2003	\$	3,400,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

The department may amend the chapter 28E agreement entered into with a private agency pursuant to 2001 Iowa Acts, First Extraordinary Session, chapter 5, sections 5 and 6, to provide for the construction of additional parking spaces for the parking structure. Awarding of a contract for the construction of such additional parking spaces shall be pursuant to the competitive bidding and all other requirements of section 18.6, subsection 9, and any rules adopted pursuant to that subsection.

5. DEPARTMENT OF HUMAN SERVICES

To provide a grant for construction of an alternative services girls treatment center:

FY 2002-2003	\$	200,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

6. IOWA STATE FAIR AUTHORITY

For vertical infrastructure improvements on the state fairgrounds:

FY 2002-2003	\$	500,000
FY 2003-2004	\$	0

FY 2004-2005	\$	0
FY 2005-2006	\$	0
7. JUDICIAL BRANCH		
a. For parking improvements and provision of street access for the judicial building:		
FY 2002-2003	\$	700,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
b. For furnishings in the judicial building, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):		
FY 2002-2003	\$	1,250,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
8. INFORMATION TECHNOLOGY DEPARTMENT		
For the payment of claims relating to the purchase and implementation of an enterprise resource planning system:		
FY 2002-2003	\$	4,400,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
9. DEPARTMENT OF NATURAL RESOURCES		
a. For costs associated with the planning, design, and construction of a premier destination park, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):		
FY 2002-2003	\$	1,000,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
b. For continuation of the restore the outdoors program, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):		
FY 2002-2003	\$	2,500,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
c. For development and construction of the Lewis and Clark rural water system, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):		
FY 2002-2003	\$	281,400
FY 2003-2004	\$	1,500,000
FY 2004-2005	\$	2,450,000
FY 2005-2006	\$	2,500,000
10. DEPARTMENT OF PUBLIC DEFENSE		
a. For maintenance and repair of national guard armories and facilities:		
FY 2002-2003	\$	700,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0
b. For construction of a new national guard armory at Estherville:		
FY 2002-2003	\$	400,000
FY 2003-2004	\$	461,000
FY 2004-2005	\$	0
FY 2005-2006	\$	0
c. For remodeling and construction of an addition to the national guard armory in Boone:		
FY 2002-2003	\$	111,000
FY 2003-2004	\$	0

FY 2004-2005	\$	0
FY 2005-2006	\$	0
d. For planning, design, and construction of an addition to the national guard armory in Waterloo:		
FY 2002-2003	\$	612,100
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

11. STATE DEPARTMENT OF TRANSPORTATION

a. For vertical infrastructure improvements at all eight commercial air service airports within the state:

FY 2002-2003	\$	1,100,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

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.

b. For an aviation hangar grant program for improvements to and design and construction of hangars at general aviation airports within the state:

FY 2002-2003	\$	581,400
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

c. For acquiring, constructing, and improving recreational trails within the state:

FY 2002-2003	\$	2,000,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

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.

12. 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:

FY 2002-2003	\$	1,060,000
FY 2003-2004	\$	0
FY 2004-2005	\$	0
FY 2005-2006	\$	0

b. For deposit in the community attraction and tourism fund:

FY 2002-2003	\$	12,500,000
FY 2003-2004	\$	12,500,000
FY 2004-2005	\$	0
FY 2005-2006	\$	0

13. 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.

14. REVERSION. Notwithstanding section 8.33, moneys appropriated in this section 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, 2006, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 2. PAYMENTS IN LIEU OF TUITION. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund of the state to the state board of regents for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, or so much thereof as may be 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, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 9,151,609¹

Sec. 3. IOWA COMMUNICATIONS NETWORK DEBT SERVICE. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the treasurer of state 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 debt service for the Iowa communications network, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 12,855,000²

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. 4. PRISON DEBT SERVICE. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the treasurer of state 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 repayment of prison infrastructure bonds under section 16.177, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 5,185,576³

Sec. 5. TOBACCO MASTER SETTLEMENT AGREEMENT LITIGATION FEES. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the treasurer of state 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 payment of litigation fees incurred pursuant to the tobacco master settlement agreement:

..... \$ 14,924,000

¹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1001, §44, 46; chapter 1003, §226, 233 herein
² See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §227, 233 herein
³ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §228, 233 herein

Sec. 6. 2001 Iowa Acts, chapter 185, section 25, subsection 1, paragraph d, is amended to read as follows:

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
0

Sec. 7. 2001 Iowa Acts, chapter 185, section 25, subsection 6, paragraph b, is amended to read as follows:

b. For costs associated with the planning, and design, and construction of a premier destination park, notwithstanding section 8.57, subsection 5, paragraph "c", as follows:

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

Sec. 8. EFFECTIVE DATE. The sections of this division of this Act amending 2001 Iowa Acts, chapter 185, section 25, being deemed of immediate importance, take effect upon enactment.

DIVISION II
TOBACCO SETTLEMENT TRUST FUND — ENDOWMENT FOR IOWA'S HEALTH
ACCOUNT — TUITION REPLACEMENT

Sec. 9. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, of the \$75,000,000 to be deposited in the endowment for Iowa's health account of the tobacco settlement trust fund under 2001 Iowa Acts, chapter 174, section 1, subsection 1, the following amount is appropriated to the state board of regents, 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, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 16,843,772

DIVISION III
REBUILD IOWA INFRASTRUCTURE FUND
FISCAL YEAR 2002-2003 APPROPRIATIONS

Sec. 10. There is appropriated from the rebuild Iowa infrastructure fund to the following departments and agencies for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. STATE BOARD OF REGENTS

For allocation to the university of northern Iowa for developing a 21st century learning initiative, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 800,000⁴

The university of northern Iowa shall consult with the information technology department and the department of education in continuing the initiative.

2. DEPARTMENT OF CORRECTIONS

For costs of entering into a lease-purchase agreement to connect the electrical system supporting the special needs unit at Fort Madison:

..... \$ 333,168

3. DEPARTMENT OF CULTURAL AFFAIRS

a. For historical site preservation grants, to be used for the restoration, preservation, and development of historical sites:

..... \$ 800,000⁵

⁴ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §195, 213 herein

⁵ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §196, 213 herein

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 paragraph “a”, 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 paragraph “a” shall not exceed \$100,000 per project. Not more than two grants may be awarded in each county.

b. 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”:

..... \$ 150,000⁶

4. DEPARTMENT OF ECONOMIC DEVELOPMENT

a. For deposit in the local housing assistance program fund created in section 15.354, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 800,000

b. For deposit in the rural enterprise fund to be used for the dry fire hydrant and rural water supply education and demonstration project, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 100,000⁷

5. DEPARTMENT OF EDUCATION

a. To provide resources for structural and technological improvements to local libraries, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 600,000

b. For the community college vocational-technical technology improvement program authorized in chapter 260A, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 3,000,000

c. For school improvement technology block grants, notwithstanding section 8.57, subsection 5, paragraph “c”, and notwithstanding section 256D.5, subsection 2, Code 2001:

..... \$ 5,770,600⁸

The moneys appropriated in this lettered paragraph shall be distributed on a per pupil basis to school districts, notwithstanding section 256D.6, Code Supplement 2001, to be used for the purchase of technology, subject to the restrictions of section 256D.8, subsection 1, Code Supplement 2001. The moneys appropriated in this lettered paragraph shall be allocated to school districts in the proportion that the basic enrollment of a school district and the participating accredited nonpublic schools located within the school district for the budget year bears to the sum of the basic enrollments of all school districts and participating accredited nonpublic schools in the state for the budget year. For purposes of this lettered paragraph, “school district” means a school district, the Iowa braille and sight saving school, the state school for the deaf, the Price laboratory school at the university of northern Iowa, and the institutions under the control of the department of human services as provided in section 218.1, subsections 1 through 3, 5, 7, and 8.

The moneys appropriated in this lettered paragraph shall be allocated to school districts for the purchase of technology for accredited nonpublic schools as provided in 2001 Iowa Acts, chapter 189, section 14.

A participating accredited nonpublic school, the Iowa braille and sight saving school, the state school for the deaf, the Price laboratory school at the university of northern Iowa, and the department of human services on behalf of the institutions under the department’s control as provided in section 218.1, subsections 1 through 3, 5, 7, and 8, shall certify their basic enrollments or average student yearly enrollment, as applicable, to the department of education by October 1, 2002.

d. For completion of the electronic data interchange project known as project EASIER, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 150,000⁹

⁶ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §197, 213 herein

⁷ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §198, 213 herein

⁸ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §200, 213 herein

⁹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §201, 213 herein

6. DEPARTMENT OF GENERAL SERVICES

a. For routine maintenance of state buildings and facilities under the purview of the department, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 2,000,000¹⁰

The department shall quarterly file a report with the legislative fiscal bureau detailing the use and disposition of funds appropriated in this paragraph “a”.

Of the funds appropriated in this paragraph “a”, \$200,000 shall be allocated to the judicial branch for routine maintenance.

b. For relocation expenses associated with remodeling projects on the capitol complex, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 898,000

7. DEPARTMENT OF HUMAN SERVICES

For automation of child abuse intake reports, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 154,267¹¹

The automation shall be developed in a manner so that it may be easily integrated for use with the 211 telephone number system being implemented statewide to improve public access to social services.

8. IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION

For maintenance and lease costs associated with Part III connections, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 2,727,004

9. INFORMATION TECHNOLOGY DEPARTMENT

a. For data warehouse projects, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 1,000,000¹²

Of the amount appropriated in this paragraph “a”, \$564,000 shall be utilized for lease-purchase costs related to the justice data warehouse technology project, and \$60,000 is allocated to the division of criminal and juvenile justice planning of the department of human rights for 1.00 full-time equivalent position to provide support for the justice data warehouse technology project.

b. For additional technology projects, as determined by the department, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 545,733¹³

The moneys appropriated in this paragraph “b” may be used for development of the Iowa communications network or for the installation of high-definition television at Iowa public television facilities.

10. POST 16, DEPARTMENT OF PUBLIC SAFETY

For capitol security personnel, equipment, and related costs, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 850,000

11. OFFICE OF SECRETARY OF STATE

To replace the voter registration system, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 350,000¹⁴

12. COMMISSION OF VETERANS AFFAIRS

For demolition and removal of the fire-damaged dwelling of the commandant of the Iowa veterans home, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 50,000

13. REVERSION. Notwithstanding section 8.33, moneys appropriated in this section shall not revert at the close of the fiscal year for which they were appropriated but shall remain avail-

¹⁰ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §202, 213 herein

¹¹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §203, 213 herein

¹² See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §204, 213 herein

¹³ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §205, 213 herein

¹⁴ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §206, 213 herein

able for the purposes designated until the close of the fiscal year that begins July 1, 2005, or until the project for which the appropriation was made is completed, whichever is earlier.

SUPPLEMENTAL APPROPRIATION AND CHANGES
TO PRIOR APPROPRIATIONS

Sec. 11. There is appropriated from the rebuild Iowa infrastructure fund to the department of corrections 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 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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Sec. 12. 2001 Iowa Acts, chapter 185, section 1, unnumbered paragraph 2, is amended to read as follows:

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
		<u>0</u>

Sec. 13. 2001 Iowa Acts, chapter 185, section 7, subsections 1 and 2, are amended to read as follows:

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
		<u>0</u>

2. For capitol interior restoration:

FY 2001-2002	\$	0
FY 2002-2003	\$	2,700,000
		<u>0</u>

Sec. 14. 2001 Iowa Acts, chapter 185, section 11, subsections 1 through 3, are amended to read as follows:

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
		<u>0</u>
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
		<u>0</u>
FY 2003-2004	\$	3,653,000
		<u>0</u>

3. For upgrading the steam distribution system at the university of northern Iowa:

FY 2001-2002	\$	0
FY 2002-2003	\$	4,320,000
		<u>0</u>
FY 2003-2004	\$	4,390,000
		<u>0</u>

Sec. 15. 2001 Iowa Acts, chapter 185, section 10, unnumbered paragraph 2, is amended to read as follows:

For construction of a new national guard armory at Estherville:

FY 2001-2002	\$	0
FY 2002-2003	\$	400,000
		<u>0</u>
FY 2003-2004	\$	461,000
		<u>0</u>

Sec. 16. 2000 Iowa Acts, chapter 1225, section 15, subsections 2 and 3, as amended by 2001 Iowa Acts, chapter 185, section 23, are amended to read as follows:

2. For continued renovation of the biological sciences facility at the state university of Iowa:

FY 2000-2001	\$	4,400,000
FY 2001-2002	\$	0
FY 2002-2003	\$	3,000,000
		<u>0</u>

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	\$	0
FY 2002-2003	\$	8,400,000
		<u>0</u>

Sec. 17. 2000 Iowa Acts, chapter 1225, section 18, unnumbered paragraph 2, as amended by 2001 Iowa Acts, chapter 185, section 24, is amended to read as follows:

For deposit in the community attraction and tourism fund:

FY 2001-2002	\$	0
FY 2002-2003	\$	12,500,000
		<u>0</u>
FY 2003-2004	\$	12,500,000
		<u>0</u>

Sec. 18. POOLED TECHNOLOGY FUNDING — PRIOR ALLOCATIONS — NONREVERSION. Notwithstanding section 8.33, moneys appropriated and allocated in 2001 Iowa Acts, chapter 189, section 5, subsection 1, which remain unobligated or unexpended at the close of the fiscal year for which they were appropriated shall not revert, but shall remain available for expenditure for the purposes for which they were appropriated and allocated, for the fiscal year beginning July 1, 2002, and ending June 30, 2003.

Sec. 19. EFFECTIVE DATE. The sections of this division of this Act providing a supplemental appropriation to the department of corrections for the fiscal year beginning July 1, 2001, and ending June 30, 2002; amending 2001 Iowa Acts, chapter 185, and 2000 Iowa Acts, chapter 1225; and providing for the nonreversion of certain pooled technology funding, being deemed of immediate importance, take effect upon enactment.

DIVISION IV
ENVIRONMENT FIRST FUND

Sec. 20. There is appropriated from the environment first fund to the following departments and agencies for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

a. 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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b. For continuation of a program that provides multiobjective resource protections for flood control, water quality, erosion control, and natural resource conservation:

.....	\$	2,700,000
-------	----	-----------

c. 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

d. 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:

..... \$ 1,500,000¹⁵

e. To provide financial assistance for the establishment of permanent soil and water conservation practices:

..... \$ 7,500,000¹⁶

(1) Not more than 5 percent of the moneys appropriated in this paragraph "e" may be allocated for cost-sharing to abate complaints filed under section 161A.47.

(2) Of the moneys appropriated in this paragraph "e", 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.

(3) 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.

(4) The state soil conservation committee created in section 161A.4 may allocate moneys appropriated in this paragraph "e" to conduct research and demonstration projects to promote conservation tillage and nonpoint source pollution control practices.

(5) The financial incentive payments may be used in combination with department of natural resources moneys.

(6) Not more than 15 percent of the moneys appropriated in this paragraph "e" may be used for costs of administration and implementation of soil and water conservation practices.

f. 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

g. 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 paragraph "g", \$650,000 shall be allocated to the hungry canyons account, and \$100,000 shall be allocated to the loess hills alliance account.

h. For allocation to the southern Iowa development and conservation authority for protection of road structures:

..... \$ 250,000¹⁷

2. DEPARTMENT OF ECONOMIC DEVELOPMENT

For deposit in the brownfield redevelopment fund created in section 15.293 to provide assistance under the brownfield redevelopment program:

..... \$ 1,000,000¹⁸

3. DEPARTMENT OF NATURAL RESOURCES

a. 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

b. For statewide coordination of volunteer efforts under the water quality and keepers of the land programs:

..... \$ 100,000

¹⁵ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §207, 213 herein

¹⁶ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §208, 213 herein

¹⁷ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §209, 213 herein

¹⁸ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §210, 213 herein

- c. For continuing the establishment and operation of water quality monitoring stations:
..... \$ 2,605,000
 - d. For the dredging of lakes, including necessary preparation for dredging, in accordance with the department's classification of Iowa lakes restoration report:
..... \$ 1,250,000¹⁹
 - e. 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 paragraph "e" exceeds the amount of marine fuel tax receipts deposited into the rebuild Iowa infrastructure fund for the fiscal year ending June 30, 2003, the difference between the amount appropriated in this paragraph "e" 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 13.
- f. For deposit in the administration account of the water quality protection fund, to carry out the purposes of that account:
..... \$ 500,000
 - g. For air quality monitoring equipment:
..... \$ 500,000

RESOURCES ENHANCEMENT AND PROTECTION FUND

Sec. 21. 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, 2002, and ending June 30, 2003, the following amount, to be allocated as provided in section 455A.19:

..... \$ 10,000,000

The funds allocated to the land management and open spaces accounts from the appropriation in this section may be used for park operation purposes.²⁰

Sec. 22. REVERSION.

1. Except as provided in subsection 2, and notwithstanding section 8.33, moneys appropriated in this division of this Act that remain unencumbered or unobligated 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, 2004, 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 in this division of this Act to provide financial assistance for the establishment of permanent soil and water conservation practices, 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, 2005.

DIVISION V
STATUTORY AND RELATED CHANGES

Sec. 23. Section 2.43, unnumbered paragraph 1, Code 2001, is amended to read as follows:
The legislative council in cooperation with the officers of the senate and house shall have the duty and responsibility for preparing for each session of the general assembly. Pursuant to such duty and responsibility, the legislative council shall assign the use of areas in the state capitol except for the areas used by the governor and the courts as of January 1, 1986, and by the courts as of November 1, 2002, and, in consultation with the director of the department of general services and the capitol planning commission, may assign areas in other state office

¹⁹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §211, 213 herein

²⁰ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §212, 213 herein

buildings for use of the general assembly or legislative agencies. The legislative council may authorize the renovation, remodeling and preparation of the physical facilities used or to be used by the general assembly or legislative agencies subject to the jurisdiction of the legislative council and award contracts pursuant to such authority to carry out such preparation. The legislative council may purchase supplies and equipment deemed necessary for the proper functioning of the legislative branch of government.

Sec. 24. RAILROAD CLOSE-CLEARANCE STUDY. The state department of transportation shall conduct a study concerning close-clearance conditions near railroad tracks. The department shall report the findings of the study and make recommendations regarding such findings to the general assembly by January 1, 2003.

Approved May 10, 2002

CHAPTER 1174

HEALTHY IOWANS TOBACCO TRUST AND TOBACCO SETTLEMENT TRUST FUND — APPROPRIATIONS

H.F. 2615

AN ACT relating to and making appropriations from the healthy Iowans tobacco trust and the tobacco settlement trust fund, and providing effective dates, and providing for retroactive applicability.

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, 2002, and ending June 30, 2003, 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, 2002, through June 30, 2003, and to continue the resource-based relative value system of reimbursement under the medical assistance program:

.....	\$	8,095,718
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 - 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, 2002, through June 30, 2003, 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, 2002, through June 30, 2003, for rehabilitative treatment and support services providers under child and family services:

.....	\$	3,243,026
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 - 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, 2002, through June 30, 2003, 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, 2002, through June 30, 2003, 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, 2002, through June 30, 2003, 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, 2002, through June 30, 2003, 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, 2002, through June 30, 2003, 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:

..... \$ 17,500,000

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 “b”:

..... \$ 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:

..... \$ 5,000,000

..... 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.

(4) Of the funds appropriated in this paragraph “a”, not less than 80 percent of the amount

expended in the fiscal year beginning July 1, 2001, for community partnerships shall be expended in the fiscal year beginning July 1, 2002, for that purpose.

b. For additional substance abuse treatment under the substance abuse treatment program: \$ 10,000,000

(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 "b" 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 "b" to share research-based best practices for treatment with substance abuse treatment facilities.

(4) The department shall use funds appropriated in this paragraph "b" to develop a results-based funding approach for substance abuse treatment services.

(5) The department shall use funds appropriated in this paragraph "b" 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:

..... \$ 2,390,064
..... FTEs 4.00

(1) Of the funds appropriated in this paragraph "c", not more than \$1,157,482 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 \$381,445 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 \$409,591 shall be used for the state poison control center.

(4) Of the funds appropriated in this paragraph "c", not more than \$288,770 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 \$76,388 shall be used to implement prevention strategies of healthy Iowans 2010 plan to address the leading causes of death in Iowa.

(6) Of the funds appropriated in this paragraph "c", not more than \$76,388 shall be used for the childhood lead poisoning prevention program.

d. For provision of smoking cessation products as provided in this paragraph: \$ 75,000

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, \$255,693 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, 2002, and ending June 30, 2003, 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. IOWA EMPOWERMENT FUND. There is appropriated from the healthy Iowans tobacco trust created in section 12.65, to the Iowa empowerment fund created in section 28.9 for the fiscal year beginning July 1, 2002, and ending June 30, 2003, for deposit in the school ready children grants account and for distribution as provided in this section:

..... \$ 1,153,250

Sec. 4. IOWA DEPARTMENT OF HUMAN SERVICES. There is appropriated from the healthy Iowans tobacco trust created in section 12.65, 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 purposes designated:

For the implementation of the provisions of the federal Health Insurance Portability and Accountability Act, Pub. L. No. 104-191 relating to the medical assistance program:

..... \$ 2,100,000

Notwithstanding section 8.33, moneys appropriated under this section that are unobligated or unencumbered at the end of the fiscal year beginning June 30,¹ 2002, and ending June 30, 2003, shall not revert, but shall remain available for the specific purposes designated in this section until June 30, 2004.

Sec. 5. DEPARTMENT OF CORRECTIONS — SPECIAL NEEDS UNIT. There is appropriated from the healthy Iowans tobacco trust created in section 12.65, 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:

For operating the special needs unit at the Fort Madison correctional facility and for not more than the following full-time equivalent positions:

..... \$ 1,100,000

..... FTEs 17.87

Sec. 6. PRIOR YEAR NONREVERSION. Notwithstanding 2001 Iowa Acts, chapter 184, section 3, subsection 3, 2001 Iowa Acts, chapter 184, section 13, and section 8.33, moneys appropriated under 2001 Iowa Acts, chapter 184, section 3, subsection 2, for the establishment and operating of a substance abuse treatment facility which are unobligated or unencumbered on April 1, 2002, shall not be expended or obligated during the remainder of the fiscal year beginning July 1, 2001, and ending June 30, 2002, and shall not revert but shall be available for the fiscal year beginning July 1, 2002, and ending June 30, 2003, for the following:

1. The first \$27,409 available shall be used to supplement the appropriations in this or any other Act for the state poison control center.
2. The next \$172,591 available shall be used for a value-based treatment program at the Newton correctional facility.
3. The remaining moneys available shall be used to supplement the appropriations in this or any other Act for substance abuse treatment under the substance abuse treatment program.
4. Any unobligated or unencumbered moneys remaining at the end of the fiscal year beginning July 1, 2002, shall revert to the healthy Iowans tobacco trust.

¹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §244, 262 herein

Sec. 7. TOBACCO USE PREVENTION AND CONTROL INITIATIVE — FY 2001-2002 NONREVERSION. Notwithstanding section 8.33 and 2001 Iowa Acts, chapter 184, section 13, moneys appropriated for the tobacco use prevention and control initiative in 2001 Iowa Acts, chapter 184, section 1, subsection 5, paragraph “a”, 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. 8. 2001 Iowa Acts, chapter 174, section 1, is amended to read as follows:

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.

For the fiscal year beginning July 1, 2002, and ending June 30, 2003, of the \$75,000,000 to be deposited in the endowment for Iowa’s health account of the tobacco settlement trust fund, \$9,000,000 shall be transferred to the healthy Iowans tobacco trust created in section 12.65.

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. 9. EFFECTIVE DATES.

1. Section 4 of this Act, relating to the appropriation to the department of human services for the implementation of the federal Health Insurance Portability and Accountability Act, being deemed of immediate importance, takes effect upon enactment.

2. Section 7 of this Act, relating to nonreversion of moneys appropriated for the tobacco use prevention and control initiative, being deemed of immediate importance, takes effect upon enactment.

Sec. 10. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. Section 6 of this Act, relating to nonexpenditure, nonobligation, and nonreversion of funds remaining unencumbered or unobligated on April 1, 2002, which were appropriated for the establishment and operation of a substance abuse treatment facility and which are to be available in the fiscal year

beginning July 1, 2002, and ending June 30, 2003, takes effect upon enactment and is retroactively applicable to April 1, 2002.

Approved May 10, 2002

CHAPTER 1175

COMPENSATION FOR PUBLIC EMPLOYEES AND ADDITIONAL PROVISIONS

H.F. 2623

AN ACT relating to public funding provisions involving the compensation and benefits for public officials and employees, county mental health allowed growth, regulatory and other properly related matters of the state, making and reducing appropriations, and providing effective dates.

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

DIVISION I COMPENSATION AND BENEFITS

Section 1.

1. STATE BOARD OF REGENTS DEMUTUALIZATION PROCEEDS AND UNDERGROUND STORAGE TANK FUND TRANSFERS.

a. The state board of regents shall transfer by June 1, 2002, to the treasurer of state for deposit in the salary adjustment fund the sum of \$30,000,000 from the proceeds received by the state board of regents as a result of the demutualization of the principal mutual holding company. The amount transferred represents the portion of the funds utilized by the state board of regents institutions for employer contributions toward the premiums on insurance policies which were paid from state general fund appropriations for previous fiscal years.

b. Notwithstanding section 455G.3, subsection 1, on July 1, 2002, \$11,100,000 is transferred from the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, subsection 1, to the salary adjustment fund.

2. COLLECTIVE BARGAINING AGREEMENTS FUNDED — REGENTS DEMUTUALIZATION PROCEEDS — UNDERGROUND STORAGE TANK FUND TRANSFER. The state board of regents demutualization proceeds and underground storage tank fund moneys transferred pursuant to subsection 1 to the salary adjustment fund are appropriated and shall be distributed 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, 2002, and ending June 30, 2003, in the amount of \$41,100,000, or so much thereof as may be necessary, to fully fund the following annual pay adjustments, expense reimbursements, and related benefits:

a. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.

b. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the public safety bargaining unit.

c. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the security bargaining unit.

- d. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the technical bargaining unit.
 - e. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional fiscal and staff bargaining unit.
 - f. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the university of northern Iowa faculty bargaining unit.
 - g. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the clerical bargaining unit.
 - h. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional social services bargaining unit.
 - i. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.
 - j. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining unit.
 - k. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the patient care bargaining unit.
 - l. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the science bargaining unit.
 - m. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the state university of Iowa graduate student bargaining unit.
 - n. 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.
 - o. The annual pay adjustments, related benefits, and expense reimbursements referred to in sections 2 and 3 of this division of this Act for employees not covered by a collective bargaining agreement.
3. In distributing moneys from the salary adjustment fund, the department of management shall take into consideration the special circumstances of those state institutions operating under the net general fund appropriation budgeting system so that such institutions are not adversely affected because of the use of that budgeting system.

Sec. 2. NONCONTRACT STATE EMPLOYEES — GENERAL.

1. a. For the fiscal year beginning July 1, 2002, 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, 2002, shall be increased by 3 percent for the pay period beginning October 25, 2002, and any additional changes in the pay plans shall be approved by the governor.
- b. For the fiscal year beginning July 1, 2002, 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 division of this Act or salaries of appointed state officers set by the governor, other persons designated, 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. 3. STATE EMPLOYEES — STATE BOARD OF REGENTS. Funds from the appropriation in section 1, subsection 2 of this division of this Act, not to exceed \$25,000,000, shall be

allocated to the state board of regents for the purposes of providing increases for state board of regents employees covered by section 1 of this division of this Act and for state board of regents 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 division of 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 1, subsection 2, paragraph "f", of this division of this Act.

Sec. 4. STATE COURTS — JUSTICES, JUDGES, AND MAGISTRATES.

1. Funds from the appropriation in section 1, subsection 2 of this division of this Act, not to exceed \$4,000,000, shall be allocated to the judicial branch for the purpose of providing increases in salaries for state judges, justices, and magistrates and for increases for other judicial branch employees. The salary rates specified in subsection 2 are for the fiscal year beginning July 1, 2002, effective for the pay period beginning December 20, 2002, and for subsequent fiscal years until otherwise provided by 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, 2002, effective with the pay period beginning December 20, 2002, and for subsequent pay periods.

a. Chief justice of the supreme court:	\$	124,550
b. Each justice of the supreme court:	\$	120,100
c. Chief judge of the court of appeals:	\$	119,980
d. Each associate judge of the court of appeals:	\$	115,540
e. Each chief judge of a judicial district:	\$	114,470
f. Each district judge except the chief judge of a judicial district:	\$	109,810
g. Each district associate judge:	\$	95,700
h. Each associate juvenile judge:	\$	95,700
i. Each associate probate judge:	\$	95,700
j. Each judicial magistrate:	\$	28,530
k. Each senior judge:	\$	6,370

3. Persons receiving the salary rates established under subsection 2 shall not receive any additional salary adjustments provided by this division of this Act.¹

Sec. 5. 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, 2002, and ending June 30, 2003, 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:	\$	1,588,368
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2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, or so much thereof as may be necessary, to be used for the purpose designated:

¹ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §218, 233 herein

To supplement other funds appropriated by the general assembly:

..... \$ 8,627,499

3. Except as otherwise provided in this division of 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 division of this Act.

Sec. 6. SPECIAL FUNDS — AUTHORIZATION. For 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 provided in this division of this Act.

Sec. 7. GENERAL FUND SALARY MONEYS. Funds appropriated for distribution from the salary adjustment fund in section 1, subsection 2 of this division of 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 allocated in this division of this Act for employees of the state board of regents shall exclude general university indirect costs and general university federal funds.

Sec. 8. FEDERAL FUNDS APPROPRIATED. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, all federal grants to and the federal receipts of the agencies affected by this division of this Act which are received and may be expended for purposes of this division of this Act are appropriated for those purposes and as set forth in the federal grants or receipts.

Sec. 9. STATE TROOPER MEAL ALLOWANCE. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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. 10. SALARY MODEL COORDINATOR. Of the funds appropriated in section 1, subsection 2, of this division of this Act, \$126,767 for the fiscal year beginning July 1, 2002, 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 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. 11. HEALTH INSURANCE INCENTIVE PROGRAMS. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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 reve-

nue 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 in their eligible employees' paychecks as soon as the payment is administratively practical.

Sec. 12. **TERMINAL LIABILITY HEALTH INSURANCE SURCHARGE.** For the period beginning July 1, 2002, and ending January 3, 2003, 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 judicial district departments of correctional services. The proceeds of the surcharge shall be credited to the terminal liability health insurance fund created in section 421.46. 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. 13. 2002 Iowa Acts, Senate File 2304,² section 21, subsection 3, is amended to read as follows:

3. As part of implementing the reduction made in subsection 1, notwithstanding the annual salary rates authorized for justices, judges, and magistrates in 2001 Iowa Acts, chapter 190, section 1, for the fiscal year beginning July 1, 2001, those salary rates shall be reduced by applying a 5 percent reduction to the portion of annual salary attributable to the period beginning on the effective date of this Act through June 30 ~~20~~, 2002. Subsection 2 does not apply to justices, judges, and magistrates subject to this subsection.

Sec. 14. 2002 Iowa Acts, Senate File 2304,³ section 25, subsections 3 and 4, are amended to read as follows:

3. As part of implementing the reduction made in this section, notwithstanding the annual salary rates authorized for elective executive branch officials in 2000 Iowa Acts, chapter 1219, section 3, for the fiscal year beginning July 1, 2001, the salary rates for such officials shall be reduced by applying a 5 percent reduction to the portion of annual salary attributable to the period beginning on the effective date of this Act through June 30 ~~20~~, 2002. Subsection 2 does not apply to elective executive branch officials subject to this subsection.

4. As part of implementing the reduction made in this section, notwithstanding the annual salaries established under 2001 Iowa Acts, chapter 190, section 3, for the fiscal year beginning July 1, 2001, each of those salaries shall be reduced by applying a 5 percent reduction to the portion of the salary attributable to the period beginning on the effective date of this Act through June 30 ~~20~~, 2002. Subsection 2 does not apply to appointed executive branch officers subject to this subsection.

Sec. 15. Section 421.46, subsection 2, Code Supplement 2001, is amended by striking the subsection.

Sec. 16. **EFFECTIVE DATE.** Section 1, subsection 1 of this Act relating to the state board of regents demutualization proceeds transfer, being deemed of immediate importance, takes effect upon enactment.

DIVISION II STATUTORY AND SESSION LAW CHANGES

**Sec. 17. Section 8.63, subsection 4, Code 2001, is amended to read as follows:*

4. ~~a-~~ In order for the innovations fund to be self-supporting, the innovations fund committee

² Chapter 1166 herein

³ Chapter 1166 herein

* Item veto; see message at end of the Act

shall establish repayment schedules for each innovation fund loan awarded. Agencies shall repay the funds over a period not to exceed five years with interest, at a rate to be determined by the innovations fund committee.

~~b. If the department of management and the department of revenue and finance certify that the savings from a proposed innovations fund project will result in a net increase in the balance of the general fund of the state without a corresponding cost savings to the requesting agency, and if the requesting agency meets all other eligibility requirements, the innovations fund committee may approve the loan for the project and not require repayment by the requesting agency. There is appropriated from the general fund of the state to the department of revenue and finance an amount sufficient to repay the loan amount.*~~

*Sec. 18. Section 12.21, Code 2001, is amended to read as follows:

12.21 ACCEPTING CREDIT CARD PAYMENTS.

1. The treasurer of state may enter into an agreement with a financial institution or other credit card processor to provide credit card receipt processing for state departments which are authorized by the treasurer of state to accept payment by credit card.

2. A department which accepts authorized by the treasurer of state to accept payment by credit card payments may adjust its fees to reflect the cost of credit card receipt processing as determined by the treasurer of state. A fee may be charged by a department for using the credit card payment method notwithstanding any other provision of the Code setting specific fees. The fees charged to a payer shall be the same regardless of payment method unless otherwise permitted in the agreement with the financial institution or credit card processor.

3. The credit card charges applied by a financial institution or credit card processor for credit card receipts accepted in accordance with subsection 1 shall be considered to be part of the payment due and accepted. A state department authorized by the treasurer of state to accept payment by credit card shall pay the credit card receipt processing charges from aggregate fees collected.

4. The treasurer of state shall adopt rules to implement this section.*

*Sec. 19. Section 14B.203, subsection 3, Code Supplement 2001, is amended to read as follows:

3. In addition to other forms of payment, credit cards shall be accepted in payment for monies owed to a governmental entity as provided in this section, according to rules which shall be adopted by the treasurer of state under section 12.21. The fees to be charged shall not exceed those permitted by statute. A governmental entity may adjust its fees to reflect the cost of processing as determined by the treasurer of state. The discount charged by the credit card issuer may be included in determining the fees to be paid for completing a financial transaction under this section by using a credit card.*

*Sec. 20. Section 14B.205, Code 2001, is amended to read as follows:

14B.205 CREDIT CARDS ACCEPTED.

In addition to other forms of payment, credit cards may shall be accepted in accordance with section 12.21 in payment for any fees, including but not limited to interest, penalties, subscriptions, registrations, purchases, applications, licenses, permits, or other filings transmitted or transactions conducted electronically. The fees to be charged shall not exceed those permitted by statute, except that the discount charged by the credit card issuer may be included in determining the fee to be charged for records transmitted or transactions conducted electronically.*

*Sec. 21. Section 15.108, subsection 9, paragraph e, Code Supplement 2001, is amended to read as follows:

e. At the director's discretion, accept Accept payment by credit card in accordance with section 12.21 of any fees, interest, penalties, subscriptions, registrations, purchases, or other payments, or any portion of such payments, which are due or collected by the department. The department may adjust the amount of the payment to reflect the costs of processing the pay-

* Item veto; see message at end of the Act

*ment as determined by the treasurer of state and the payment by credit card shall include, in addition to all other charges, any discount charged by the credit card issuer.**

Sec. 22. Section 15E.112, subsection 1, Code 2001, is amended to read as follows:

1. A value-added agricultural products and processes financial assistance fund is created within the state treasury under the control of the department. The fund shall consist of moneys allocated from the Iowa strategic investment fund created in section 15.313, those appropriated moneys, and any other moneys available to and obtained or accepted by the department from the federal government or private sources for placement in the fund. The assets of the fund shall be used by the department only for administration and carrying out the purposes of section 15E.111.

Sec. 23. Section 18.75, subsection 6, Code 2001, is amended to read as follows:

6. Have legal custody of all Codes, session laws, books of annotations, tables of corresponding sections, publications, except premium lists published by the Iowa state fair board, containing reprints of statutes or administrative rules, or both, reports of state departments, and reports of the supreme court, and sell, account for, and distribute the same as provided by law. However, the legislative service bureau shall solicit and process orders for the distribution of all printed Codes, session laws, administrative codes and bulletins, court rules, and the state roster.

Sec. 24. Section 18.97A, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The office of the governor, the supreme court, and the legislative council shall control the number of copies of the printed publications enumerated in section 18.97 distributed to recipients in their respective branches.

Sec. 25. Section 124.401A, Code 2001, is amended to read as follows:

124.401A ENHANCED PENALTY FOR MANUFACTURE OR DISTRIBUTION TO PERSONS ON CERTAIN REAL PROPERTY.

In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older who unlawfully manufactures with intent to distribute, distributes, or possesses with intent to distribute a substance or counterfeit substance listed in schedule I, II, or III, or a simulated controlled substance represented to be a controlled substance classified in schedule I, II, or III, to another person who is eighteen years of age or older in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, public park, public swimming pool, public recreation center, or on a marked school bus, may be sentenced up to an additional term of confinement of five years.⁴

Sec. 26. Section 124.409, subsection 1, Code 2001, is amended by striking the subsection.⁵

Sec. 27. NEW SECTION. 239B.2B ELIGIBILITY OF NONCITIZENS.

A person who meets the conditions of eligibility under section 239B.2 and who meets either of the following requirements shall be eligible for participation in the family investment program:

1. The person is a conditional resident alien who was battered or subjected to extreme cruelty, or whose child was battered or subjected to extreme cruelty, perpetrated by the person's spouse who is a United States citizen or lawful permanent resident as described in 8 C.F.R. § 216.5(a)(3).

2. The person was battered or subjected to extreme cruelty, or the person's child was battered or subjected to extreme cruelty, perpetrated by the person's spouse who is a United States citizen or lawful permanent resident and the person's petition has been approved or a petition is pending that sets forth a prima facie case that the person has noncitizen status under any of the following categories:

* Item veto; see message at end of the Act

⁴ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §236, 262 herein

⁵ See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §237, 262 herein

- a. Status as a spouse or child of a United States citizen or lawful permanent resident under the federal Immigration and Nationality Act, § 204(a)(1), as codified in 8 U.S.C. § 1154(a)(1)(A).
- b. Status as a spouse or child who was battered or subjected to extreme cruelty by a United States citizen or lawful permanent resident, under the federal Immigration and Nationality Act, § 204(a)(iii), as codified in 8 U.S.C. § 1154(a)(1)(A)(iii).
- c. Classification as a person lawfully admitted for permanent residence under the federal Immigration and Nationality Act.
- d. Suspension of deportation and adjustment of status under the federal Immigration and Nationality Act, § 244(a), as in effect before the date of enactment of the federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996.
- e. Cancellation of removal or adjustment of status under the federal Immigration and Nationality Act, § 240A, as codified in 8 U.S.C. § 1229b.
- f. Status as an asylee, if asylum is pending, under the federal Immigration and Nationality Act, § 208, as codified in 8 U.S.C. § 1158.

Sec. 28. Section 249A.3, subsection 2, paragraph a, Code Supplement 2001, is amended to read as follows:

- a. As provided either pursuant to subparagraph (1) or pursuant to subparagraphs (2) and (3):

(1) As allowed under 42 U.S.C. § 1396a(a)(10)(A)(ii)(XIII), individuals with disabilities, who are less than sixty-five years of age, who are members of families whose income is less than two hundred fifty percent of the most recently revised official poverty ~~line~~ guidelines published by the ~~federal office of management and budget~~ United States department of health and human services for the family, who have earned income and who are eligible for supplemental security income or supplemental security income-related ~~medical assistance or additional medical assistance~~ under this section if earnings are disregarded. As allowed by 42 U.S.C. § 1396a(r)(2), unearned income shall also be disregarded in determining whether an individual is eligible for assistance under this ~~paragraph~~ subparagraph. For the purposes of determining the amount of an individual's resources under this ~~paragraph~~ subparagraph and as allowed by 42 U.S.C. § 1396a(r)(2), a maximum of ten thousand dollars of available resources shall be disregarded and any additional resources held in a retirement account, in a medical savings account, or in any other account approved under rules adopted by the department shall also be disregarded. Individuals eligible for assistance under this ~~paragraph~~ subparagraph, whose individual income exceeds one hundred fifty percent of the official poverty ~~line~~ guidelines published by the ~~federal office of management and budget~~ United States department of health and human services for an individual, shall pay a premium. The amount of the premium shall be based on a sliding fee schedule adopted by rule of the department and shall be based on a percentage of the individual's income. The maximum premium payable by an individual whose income exceeds one hundred fifty percent of the official poverty ~~line~~ guidelines shall be commensurate with ~~premiums charged for private~~ the cost of state employees' group health insurance in this state. This paragraph shall be implemented no later than March 1, 2000.

(2) As allowed under 42 U.S.C. § 1396a(a)(10)(A)(ii)(XV), individuals who are at least sixteen years of age but less than sixty-five years of age who, but for earnings in excess of the limit established under 42 U.S.C. § 1396d(q)(2)(B), would be considered to be receiving federal supplemental security income, and who are members of families whose income is less than two hundred fifty percent of the most recently revised official poverty guidelines published by the United States department of health and human services for the family, subject to a resource limit of twelve thousand dollars for an individual and thirteen thousand dollars for a couple. For the purposes of determining the amount of an individual's or couple's resources under this subparagraph, any resources held in a retirement account, in a medical savings account, or in any other account approved under rules adopted by the department shall be disregarded. Individuals eligible for assistance under this subparagraph whose individual income exceeds one hundred fifty percent of the official poverty guidelines for an individual shall pay a

premium. The amount of the premium shall be based on a sliding fee schedule adopted by rule of the department and shall be based on a percentage of the individual's income. The maximum premium payable by an individual whose income exceeds one hundred fifty percent of the official poverty guidelines shall be commensurate with the cost of state employees' group health insurance in this state, but shall not exceed seven and one-half percent of income, unless the individual's income exceeds four hundred fifty percent of the official poverty guidelines.

(3) As allowed under 42 U.S.C. § 1396a(a)(10)(A)(ii)(XVI), employed individuals with a medically improved disability, as defined in 42 U.S.C. § 1396d(v)(1), who are members of families whose income is less than two hundred fifty percent of the most recently revised official poverty guidelines published by the United States department of health and human services for the family, subject to a resource limit of twelve thousand dollars for an individual and thirteen thousand dollars for a couple. For the purposes of determining the amount of an individual's or couple's resources under this subparagraph, any resources held in a retirement account, in a medical savings account, or in any other account approved under rules adopted by the department shall be disregarded. Individuals eligible for assistance under this subparagraph whose individual income exceeds one hundred fifty percent of the official poverty guidelines for an individual shall pay a premium. The amount of the premium shall be based on a sliding fee schedule adopted by rule of the department and shall be based on a percentage of the individual's income. The maximum premium payable by an individual whose income exceeds one hundred fifty percent of the official poverty guidelines shall be commensurate with the cost of state employees' group health insurance in this state, but shall not exceed seven and one-half percent of income, unless the individual's income exceeds four hundred fifty percent of the official poverty guidelines.

Sec. 29. Section 256.67, subsection 1, Code Supplement 2001, is amended to read as follows:

1. Act as administrator and executive secretary of the region library service area in accordance with the objectives and policies adopted by the area board of trustees and with the intent of this chapter.

Sec. 30. Section 260G.4B, subsection 1, Code Supplement 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, three million dollars in the fiscal year beginning July 1, 2001, three million dollars in the fiscal year beginning July 1, 2002, and six million dollars in the fiscal year beginning July 1, ~~2002~~ 2003, 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. 31. Section 368.4, Code 2001, as amended by 2002 Iowa Acts, House File 582,⁶ if enacted, is amended to read as follows:

368.4 ANNEXING MORATORIUM.

A city, following notice and hearing, may by resolution agree with another city or cities to refrain from annexing specifically described territory for a period not to exceed ten years and, following notice and hearing, may by resolution extend the agreement for subsequent periods not to exceed ten years each. Notice of a hearing shall be served by regular mail at least thirty days before the hearing on the city development board, on the board of supervisors of the county in which the territory is located, and on all persons owning land within the area subject to the agreement. The notice shall include the time and place of the hearing, describe the territory subject to the proposed agreement, and the general terms of the agreement. After passage of a resolution by the cities approving the agreements, a copy of the agreement and a copy of any resolution extending an agreement shall be filed with the city development board within ten days of enactment. If such an agreement is in force, the board shall dismiss a petition or plan which violates the terms of the agreement.

Sec. 32. Section 368.26, if enacted by 2002 Iowa Acts, House File 582,⁷ is amended to read as follows:

368.26 FAILURE TO PROVIDE MUNICIPAL SERVICES.

If a city fails to provide municipal services to territory involuntarily annexed, according to the plan filed pursuant to section 368.11, within three years after city taxes are imposed in the annexed territory, the city development board shall initiate proceedings to sever the annexed territory from the city. However, a city may appeal to the board for an additional three years to provide municipal services if good cause is shown. A petition for severance filed pursuant to this section shall be filed and acted upon in the same manner as a petition under section 368.11. For purposes of this section ~~and section 368.11, subsection 14~~, "municipal services" means services selected by a landowner to be provided by the city, including, but not limited to, water supply, sewage disposal, street and road maintenance, and police and fire protection, if the provision of such services is within the legal authority of the annexing city.

*Sec. 33. Section 421.17, subsection 31, Code Supplement 2001, is amended to read as follows:

~~31. At the director's discretion, accept Accept payment of taxes, penalties, interest, and fees, or any portion thereof of the payment, by credit card in accordance with section 12.21. The director may adjust the payable amount to reflect the costs of processing the payment as determined by the treasurer of state and the payment by credit card shall include, in addition to all other charges, any discount charged by the credit card issuer.*~~

*Sec. 34. Section 421.17, subsection 34, paragraph f, Code Supplement 2001, is amended to read as follows:

~~f. At the director's discretion, the The department may shall accept payment of debts, interest, and fees, or any portion of the payment by credit card in accordance with section 12.21. The director may adjust the payable amount to reflect the costs of processing the payment as determined by the treasurer of state and the payment by credit card shall include, in addition to all other charges, any discount charge by the credit card issuer.*~~

*Sec. 35. Section 455A.4, subsection 5, Code 2001, is amended to read as follows:

~~5. The department may accept payment of any fees, interest, penalties, subscriptions, or other payments due or collected by the department, or any portion of such payments, by credit card~~

⁶ Chapter 1132 herein

⁷ Chapter 1132 herein

* Item veto; see message at end of the Act

*in accordance with section 12.21. The department may adjust the amount of the payment to reflect the costs of processing the payment as determined by the treasurer of state and the payment by credit card shall include, in addition to all other charges, any discount charged by the credit card issuer.**

Sec. 36. Section 476.97, subsection 11, paragraph g, subparagraph (4), Code 2001, as amended by 2002 Iowa Acts, Senate File 429,⁸ section 2, is amended by striking the subparagraph and inserting in lieu thereof the following:

(4) Rates may be adjusted by the board to reflect any changes in revenues, expenses, and investment due to exogenous factors beyond the control of the local exchange carrier, including, but not limited to, the effects of local competition. The board shall have one hundred eighty days to consider rate changes proposed under this subparagraph, but for good cause may grant one extension of sixty days, not to exceed a total of two hundred forty days.

Sec. 37. Section 514I.5, subsection 3, Code 2001, is amended to read as follows:

3. Members appointed by the governor shall serve two-year staggered terms as designated by the governor, and legislative members of the board shall serve two-year terms. The filling of positions reserved for the public representatives, vacancies, membership terms, payment of compensation and expenses, and removal of the members are governed by chapter 69. Members of the board are entitled to receive reimbursement of actual expenses incurred in the discharge of their duties. Public members of the board are also eligible to receive compensation as provided in section 7E.6. The members shall select a chairperson on an annual basis from among the membership of the board.

Sec. 38. Section 541A.1, subsection 7, Code 2001, is amended to read as follows:

7. "Individual development account" means a either of the following:

a. A financial instrument which that is certified to have the characteristics described in section 541A.2 by the operating organization.

b. A financial instrument that is certified by the operating organization to have the characteristics described in and funded by a federal individual development account program under which federal and state funding contributed to match account holder deposits is deposited by an operating organization in accordance with federal law and regulations, and which includes but is not limited to any of the programs implemented under the following federal laws:

(1) The federal Personal Responsibility and Work Opportunity Act of 1996, 42 U.S.C. § 604(h).

(2) The federal Assets for Independence Act, Pub. L. No. 105-285, Title IV.

Sec. 39. Section 541A.3, subsection 1, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Payment by the state of a savings refund on amounts of up to two thousand dollars per calendar year that an account holder deposits in the account holder's account. Moneys transferred to an individual development account from another individual development account shall not be considered an account holder deposit for purposes of determining a savings refund. Payment of a savings refund either shall be made directly to the account holder's account or to an operating organization's central reserve account for later distribution to the account holder's account in the most appropriate manner as determined by the administrator. The state savings refund shall be the indicated percentage of the amount deposited:

Sec. 40. Section 541A.3, subsection 5, Code 2001, is amended to read as follows:

5. The administrator shall coordinate the filing of claims for savings refunds authorized under subsection 1, between account holders, operating organizations, and the department of revenue and finance. Claims approved by the administrator may be paid by the department of revenue and finance to each account, ~~or~~ for an aggregate amount for distribution to the accounts in a particular financial institution, or to an operating organization's central reserve account for later distribution to the account holders' accounts depending on the efficiency for

* Item veto; see message at end of the Act

⁸ Chapter 1060 herein

issuing the refunds. Claims shall be initially filed with the administrator on or before a date established by the administrator. Claims approved by the administrator shall be paid from the general fund of the state in the manner specified in section 422.74.

Sec. 41. Section 546.10, subsection 3, unnumbered paragraph 2, if enacted by Senate File 2326,⁹ section 32, is amended to read as follows:

Notwithstanding subsection 5, eighty-five percent of the funds received annually resulting from an increase in licensing fees ~~approved and~~ implemented on or after July ~~April~~ 1, 2002, by a licensing board or commission listed in subsection 1, is appropriated to the professional licensing and regulation division to be allocated to the board or commission for the fiscal year beginning July 1, 2002, and succeeding fiscal years, for purposes related to the duties of the board or commission, 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 available to the professional licensing division on a monthly basis during each fiscal year.

**Sec. 42. Section 556.12, subsection 1, Code 2001, is amended to read as follows:*

*1. If a report has been filed with the treasurer of state, or property has been paid or delivered to the treasurer of state, for the fiscal year ending on June 30 as required by section 556.11, the treasurer of state shall provide for the publication annually of at least one notice ~~not later than which notice shall not be published between the following September 10 and the following November 30~~ 10. Each notice shall be published at least once each week for two successive weeks in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice. If an address is not listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has its principal place of business within this state.**

Sec. 43. Section 602.1302, subsection 3, Code 2001, is amended to read as follows:

3. A revolving fund is created in the state treasury for the payment of jury and witness fees, ~~and mileage, and costs related to summoning jurors~~ by the judicial branch. The judicial branch shall deposit any reimbursements to the state for the payment of jury and witness fees and mileage in the revolving fund. Notwithstanding section 8.33, unencumbered and unobligated receipts in the revolving fund at the end of a fiscal year do not revert to the general fund of the state. The judicial branch shall on or before February 1 file a financial accounting of the moneys in the revolving fund with the legislative fiscal bureau. The accounting shall include an estimate of disbursements from the revolving fund for the remainder of the fiscal year and for the next fiscal year.

Sec. 44. Section 602.8108, subsection 5, Code Supplement 2001, is amended to read as follows:

5. A court technology and modernization fund is established as a separate fund in the state treasury. The state court administrator shall allocate one million dollars of the moneys received under subsection 2 to be deposited in the fund, which shall be administered by the supreme court and shall be used as follows:

~~a. Eighty percent shall be used to enhance the ability of the judicial branch to process cases more quickly and efficiently, to electronically transmit information to state government, local governments, law enforcement agencies, and the public, and to improve public access to the court system. Moneys in this paragraph shall not be used for the Iowa court information system.~~

~~b. Twenty percent shall be used in equal amounts to facilitate alternative dispute resolution and methods to resolve domestic abuse cases, which may include personnel for hearings under section 236.4.~~

⁹ The phrase "if enacted by 2002 Iowa Acts, Senate File 2326," probably intended; Senate File 2326 is chapter 1171 herein

* Item veto; see message at end of the Act

Sec. 45. 2001 Iowa Acts, chapter 182, section 7, subsection 2, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Notwithstanding section 8.33, any moneys which exceed the amount budgeted in the fiscal year beginning July 1, 2001, and ending June 30, 2002, that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure by the veterans home until the close of the succeeding fiscal year. For the purposes of this paragraph, "moneys" means cash receipts, accruals attributable to the fiscal year beginning July 1, 2001, and ending June 30, 2002, and the amount of the estimated reversions to the general fund, as last agreed to by the state revenue estimating conference during fiscal year beginning July 1, 2001.

Sec. 46. 2001 Iowa Acts, chapter 191, section 14, subsection 2, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Notwithstanding section 232.143, subsection 1, a region may exceed its budget target for group foster care by up to twenty percent in the fiscal year beginning July 1, 2001, and ending June 30, 2002, provided the overall funding allocated by the department for all child welfare services in the region is not exceeded. It is the intent of the general assembly that for the fiscal year beginning July 1, 2002, the budget targets for group foster care will be determined at levels so that special statutory authority for exceeding the budget targets beyond the amount authorized in section 232.143, subsection 1, will not be necessary.

Sec. 47. Section 904.108, subsection 1, paragraph o, Code Supplement 2001, is amended to read as follows:

o. Establish and maintain a correctional training center at the Mount Pleasant correctional facility program.

Sec. 48. IOWA CONGRESSIONAL MEDAL OF HONOR RECIPIENTS. The department of cultural affairs shall conduct a study to identify an appropriate location in the state capitol for a plaque and display honoring the Iowa recipients of the congressional medal of honor. The department shall report the findings and recommendations of the study to the governor and general assembly on or before December 31, 2002.

Sec. 49. DUPLICATION AND REORGANIZATION REVIEWS. In implementing the requirements of 2002 Iowa Acts, Senate File 2326, division I, if enacted, involving the department of general services, department of management, department of personnel, and information technology department identifying duplicative positions or studying the reorganization of state government, those departments shall consult with the departments that may be affected, consider previously conducted studies or reviews, and identify the projected impacts of recommended changes upon the general fund of the state, road use tax fund, and any other affected funding source.

Sec. 50. CHEROKEE MENTAL HEALTH INSTITUTE — RELOCATION OF SEXUALLY VIOLENT PREDATORS UNIT. In implementing the relocation of the unit for commitment of sexually violent predators from Oakdale to the state mental health institute at Cherokee in the fiscal year beginning July 1, 2002, in accordance with the requirement in the appropriation for the unit in 2002 Iowa Acts, Senate File 2326,¹⁰ if enacted, it is the intent of the general assembly that the department of human services complete the renovation of space at the institute and the relocation of the unit as expeditiously as possible. If requested by the department of human services as necessary to complete the renovation of space and relocation as expeditiously as possible, notwithstanding any provision of law or rule to the contrary, the department of general services shall grant a waiver for purposes of the renovation project from those requirements in administrative rule and policy that would otherwise govern the length of time the renovation project components are noticed.

* Item veto; see message at end of the Act

¹⁰ Chapter 1171 herein

Sec. 51. MEDICAL ASSISTANCE — DENTAL SERVICES FOR ADULTS. In addition to other dental services provided to adults under the medical assistance program in accordance with 2002 Iowa Acts, House File 2245,¹¹ section 7, subsection 2, the following services shall be provided:

- 1. Root canal treatments on permanent anterior teeth.
- 2. General anesthesia and intravenous sedation if necessitated by the physical or mental disability of the patient.

The department may adopt emergency rules to implement this section in accordance with the provisions of 2002 Iowa Acts, Senate File 2326,¹² division VI, section 135, if enacted.

Sec. 52. EXPENDITURE REPORTS. For the fiscal year beginning July 1, 2002, the department of agriculture and land stewardship and the department of natural resources shall each file a written report on a quarterly basis with the chairpersons and ranking members of the joint appropriations subcommittee on agriculture and natural resources and the legislative fiscal bureau regarding all expenditures of moneys appropriated from the general fund of the state or from other funds available to either department during the quarter and the number of full-time equivalent positions allocated during the quarter.

Sec. 53. IPERS POSITIONS. The number of full-time equivalent positions authorized the Iowa public employees' retirement system division in 2002 Iowa Acts, Senate File 2326,¹³ section 15, subsection 1, if enacted, is increased by 2.00 full-time equivalent positions.

Sec. 54. 2002 Iowa Acts, Senate File 2326,¹⁴ section 25, unnumbered paragraph 4, if enacted, is amended to read as follows:

If 2002 Iowa Acts, House File 681,¹⁵ is enacted and provides for the pledging of collateral in relation to the deposit of uninsured public funds, then the treasurer of state is authorized not more than the following additional full-time equivalent positions for the purposes provided for in that Act:

.....	FTEs	2.00
	<u>FTE</u>	<u>1.00</u>

Sec. 55. 2002 Iowa Acts, Senate File 2326,¹⁶ section 39, if enacted, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Of the amount appropriated in this section, \$1,250,000 shall be used for salaries, support, maintenance, and miscellaneous purposes for activities regarding animal agriculture.

Sec. 56. SCHOOL FOR THE DEAF POSITIONS. 2002 Iowa Acts, Senate File 2326,¹⁷ section 81, subsection 5, if enacted, is amended to read as follows:

5. STATE SCHOOL FOR THE DEAF

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

.....	\$	7,891,351
.....	FTEs	117.29
		<u>129.60</u>

**Sec. 57. SCOPE OF PRACTICE REVIEW COMMITTEE. 2002 Iowa Acts, Senate File 2326, section 91, subsection 10, paragraph a, if enacted, is amended to read as follows:*

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

¹¹ Chapter 1165 herein
¹² Chapter 1171 herein
* Item veto; see message at end of the Act
¹³ Chapter 1171 herein
¹⁴ Chapter 1171 herein
¹⁵ Chapter 1096 herein
¹⁶ Chapter 1171 herein
¹⁷ Chapter 1171 herein

~~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, 2002, shall not exceed 5 percent of the average annual fees generated by the boards for the previous two fiscal years.*~~

*Sec. 58. 2002 Iowa Acts, Senate File 2326, section 92, subsection 6, if enacted, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The appropriation in this subsection is contingent upon the appointment of an administrator of the division on the status of African-Americans and the appointment of all nine members to the commission on the status of African-Americans.*

Sec. 59. SCOPE OF PRACTICE REVIEW COMMITTEE. 2002 Iowa Acts, Senate File 2326, section 98, if enacted, is repealed.

Sec. 60. 2002 Iowa Acts, Senate File 2326,¹⁸ section 99, subsection 1, if enacted, is amended to read as follows:

1. To be credited to the family investment program account and used for assistance under the family investment program under chapter 239B:

.....	\$	45,618,447
		<u>46,508,982</u>

Sec. 61. 2002 Iowa Acts, Senate File 2326,¹⁹ section 99, subsection 11, unnumbered paragraph 2, if enacted, is amended to read as follows:

Pregnancy prevention grants shall be awarded to programs in existence on or before July 1, 2002, 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, 2002, 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 or older but younger than age 18 within the geographic area to be served by the grant.

In addition to the full-time equivalent positions funded in this division of this Act, the department may use a portion of the funds appropriated in this subsection to employ an employee in up to 1.00 full-time equivalent position for the administration of programs specified in this subsection.

Sec. 62. 2002 Iowa Acts, Senate File 2326,²⁰ section 127, subsection 1, paragraph a, if enacted, is amended to read as follows:

a. ~~Notwithstanding 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph "b", the modified price-based case-mix reimbursement rate upon which the reimbursement rate for nursing facilities is determined shall only include an additional inflation factor to the extent of the funding budgeted and appropriated specifically for nursing facility reimbursement based on a case-mix reimbursement methodology in this division of this Act or in other appropriations. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, nursing facilities shall be reimbursed as provided in 2002 Iowa Acts, House File 2613,²¹ if enacted.~~ Nursing facilities reimbursed under the medical assistance program shall submit annual cost reports and additional documentation as required by rules adopted by the department.

* Item veto; see message at end of the Act

¹⁸ Chapter 1171 herein

¹⁹ Chapter 1171 herein

²⁰ Chapter 1171 herein

²¹ Chapter 1172 herein

Sec. 63. 2002 Iowa Acts, Senate File 2326,²² section 134, if enacted, is amended to read as follows:

SEC. 134. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES (MH/MR/DD) ALLOWED GROWTH FACTOR ADJUSTMENT AND ALLOCATIONS — DISTRIBUTION FOR FY 2002-2003.

1. For the fiscal year beginning July 1, 2002, the moneys appropriated in 2001 Acts, chapter 176, section 1, as amended by this division of this Act, for distribution to counties of the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment, shall be distributed 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, as follows:

a. The first ~~\$2,000,000~~ 500,000 shall be credited to the risk pool created in the property tax relief fund and shall be distributed pursuant to section 426B.5, subsection 2.

b. The remaining ~~\$12,500,000~~ 14,000,000 shall be distributed as provided in this section.

2. The following formula amounts shall be utilized only to calculate preliminary distribution amounts for fiscal year 2002-2003 under this section by applying the indicated formula provisions to the formula amounts and producing a preliminary distribution total for each county:

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

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

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

..... \$ 12,492,712

14,492,712

c. For calculation of a distribution amount for counties from the mental health and developmental disabilities (MH/DD) community services fund in accordance with the formula provided in this division of this Act:

..... \$ 18,127,352

3. Notwithstanding any contrary provisions of sections 225C.7, 331.438, subsection 2, 331.439, subsection 3, and 426B.5, the moneys allocated for distribution in subsection 1, paragraph "b", and in any other Act of the Seventy-ninth General Assembly, 2002 Session, for distribution to counties in the fiscal year beginning July 1, 2002, 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 and as calculated under subsection 2 to produce preliminary distribution amounts for counties shall be subject to withholding as provided in this section.

4. After applying the applicable statutory distribution formulas to the amounts indicated in subsection 2 for purposes of formula calculations to produce preliminary distribution totals, the department of human services shall apply a withholding factor to adjust an eligible individual county's preliminary distribution total. An ending balance percentage for each county shall be determined by expressing the county's ending balance on a modified accrual basis under generally accepted accounting principles for the fiscal year beginning July 1, 2001, in the county's mental health, mental retardation, and developmental disabilities services fund created under section 331.424A, as a percentage of the county's gross expenditures from that fund for that fiscal year. The withholding factor for a county shall be the following applicable percent:

a. For an ending balance percentage of less than 10 percent, a withholding factor of 0 percent.

b. For an ending balance percentage of 10 through 24 percent, a withholding factor of 25 41.47 percent.

c. For an ending balance percentage of 25 through 34 percent, a withholding factor of 60 percent.

d. For an ending balance percentage of 35 through 44 percent, a withholding factor of 85 percent.

e. For an ending balance percentage of 45 percent or more, a withholding factor of 100 percent.

²² Chapter 1171 herein

5. The total withholding amounts applied pursuant to subsection 4 shall be equal to a withholding target amount of ~~\$11,992,712~~ 12,492,712 and the appropriation made in this division of this Act for the MH/DD community services fund and the appropriation made in 2001 Iowa Acts, chapter 176, section 1, as amended by this division of this Act shall be reduced by the amount necessary to attain the withholding target amount. If the department of human services determines that the amount to be withheld in accordance with subsection 4 is not equal to the target withholding amount, the department shall adjust the withholding factors listed in subsection 4 as necessary to achieve the withholding target amount. However, in making such adjustments to the withholding factors, the department shall strive to minimize changes to the withholding factors for those ending balance percentage ranges that are lower than others and shall not adjust the zero withholding factor specified in subsection 4, paragraph "a".

6. ~~A In order to be eligible for a funding distribution under this section, a county must levy at least 70 percent of the maximum allowed for the county's services fund under section 331.424A for taxes due and payable in the fiscal year beginning July 1, 2002, and comply with the December 1, 2002, filing deadline for the county annual financial report in accordance with section 331.403. 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.~~

7. The department of human services shall authorize the issuance of warrants payable to the county treasurer for the distribution amounts due the counties eligible under this section and notwithstanding prior practice for the MH/DD community services fund, the warrants shall be issued in January 2003.

Sec. 64. 2002 Iowa Acts, Senate File 2326,²³ section 104, subsection 12, if enacted, is amended to read as follows:

~~12. If federal funding is received or if moneys are appropriated, the department may participate~~ Of the moneys appropriated in this section, \$150,000 shall be used as state matching funds, in combination with federal and private funds, for participation 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 administered by the Iowa telecare consortium, which is a collaboration of public, private, academic, and governmental participants coordinated by Des Moines university — osteopathic medical center. 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. Des Moines university — osteopathic medical center shall submit a report to the general assembly by January 15, 2003, regarding the status of the pilot program. The program guidelines shall be consistent with those specified under 2001 Iowa Acts, chapter 191, section 7, subsection 15.

*Sec. 65. 2002 Iowa Acts, Senate File 2326, section 154, subsection 2, unnumbered paragraph 2, if enacted, is amended to read as follows:

*Riverboat enforcement costs shall be billed in accordance with section 99F.10, subsection 4, and section 99F.10A. The costs shall be not more than the department's estimated expenditures, including salary adjustment, for riverboat enforcement for the fiscal year. The costs billed to the riverboats shall not be more than \$1,280,000 in excess of the amount billed to the riverboats in the fiscal year beginning July 1, 2001. Racetrack enforcement costs shall be billed in accordance with section 99D.14, subsection 7, and section 99D.14A. The costs shall be not more than the department's estimated expenditures, including salary adjustment, for racetrack enforcement for the fiscal year. The costs billed to the racetracks shall not be more than \$420,000 in excess of the amount billed to the racetracks in the fiscal year beginning July 1, 2001.**

Sec. 66. PUBLIC TRANSIT ASSISTANCE APPROPRIATION. 2002 Iowa Acts, Senate File 2326, section 175, subsection 14, if enacted, is amended by striking the subsection.

²³ Chapter 1171 herein

* Item veto; see message at end of the Act

*Sec. 67. 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:

..... \$ 1,107,938*

Sec. 68. Chapter 2A, Code 2001, is repealed.

Sec. 69. EFFECTIVE DATE — CONTINGENCY — REPORT TO CODE EDITOR. The section of this division of this Act amending section 249A.3, relating to the optional category of individuals covered under the medical assistance program relating to persons with disabilities who have earned income, takes effect only if the department does not win the appeal against the centers for Medicare and Medicaid of the United States department of health and human services relating to the state plan amendment. The department shall notify the Code editor when the department is notified of a decision on the appeal in order to identify an effective date.

Sec. 70. EFFECTIVE DATE. The section in this Act relating to dental services for adults under the medical assistance program, being deemed of immediate importance, takes effect upon enactment.

Sec. 71. EFFECTIVE DATE. The section of this division of this Act that amends 2001 Iowa Acts, chapter 182, section 7, being deemed of immediate importance, takes effect upon enactment.

Sec. 72. EFFECTIVE DATE. The provision of this division of this Act amending 2001 Iowa Acts, chapter 191, section 14, relating to the department of human services exceeding its budget target for group foster care by up to twenty percent in fiscal year 2001-2002.²⁴

DIVISION III
CORRECTIVE AMENDMENTS

Sec. 73. Section 8.55, subsection 2, paragraph d, if enacted by 2002 Iowa Acts, House File 2075,²⁵ section 1, is amended to read as follows:

d. Notwithstanding paragraph "a", 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 each fiscal year and after the appropriate amount amounts have been transferred pursuant to paragraphs "b" and "c" 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 total amount transferred, in the aggregate, under this paragraph for all fiscal years shall not exceed the difference between fifty-million five hundred thousand dollars and the amounts transferred to the endowment for Iowa's health account to repay the amounts transferred or appropriated from the endowment for Iowa's health account in 2002 Iowa Acts, House File 2245,²⁶ 2002 Iowa Acts, Senate File 2304,²⁷ and 2002 Iowa Acts, Senate File 2315.²⁸

Sec. 74. Section 10D.1, unnumbered paragraph 1, as enacted by 2002 Iowa Acts, Senate File 2210,²⁹ section 3, is amended to read as follows:

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

* Item veto; see message at end of the Act
24 See 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §245, 262 herein
25 Chapter 1169 herein
26 Chapter 1165 herein
27 Chapter 1166 herein
28 Chapter 1167 herein
29 Chapter 1028 herein

Sec. 75. Section 15E.42, subsection 3, as enacted by 2002 Iowa Acts, House File 2271,³⁰ section 2, is amended to read as follows:

3. "Investor" means an individual making a cash investment in a qualifying business or a person making a cash investment in a community-based seed capital fund. "Investor" does not include a person which is a current or previous owner, member, or shareholder in a qualified qualifying business.

Sec. 76. Section 15E.43, subsection 1, paragraph a, as enacted by 2002 Iowa Acts, House File 2271,³¹ section 3, is amended to read as follows:

a. For tax years beginning on or after January 1, 2002, a tax credit shall be allowed against the taxes imposed in chapter 422, division II, for a portion of an individual taxpayer's equity investment, as provided in subsection 2, in a qualified qualifying business. An individual shall not claim a tax credit under this paragraph of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual.

Sec. 77. Section 15E.224, subsection 1, as enacted by 2002 Iowa Acts, House File 2078,³² section 4, is amended to read as follows:

1. An Iowa capital investment corporation may be organized as a private, not-for-profit corporation under chapter 504A. The Iowa capital investment corporation is not a public corporation or instrumentality of the state and shall not enjoy any of the privileges and shall not be required to comply with the requirements of a state agency. Except as otherwise provided in this division, this division does not exempt the corporation from the requirements under state law which apply to other corporations organized under chapter 504A. The purposes of an Iowa capital investment corporation shall be to organize the Iowa fund of funds, to select a venture capital investment fund allocation manager to select venture capital fund investments by the Iowa fund of funds, to negotiate the terms of a contract with the venture capital investment fund allocation manager, to execute the contract with the selected venture capital investment fund allocation manager on behalf of the Iowa fund of funds, to receive investment returns from the Iowa fund of funds, and to reinvest the investment returns in additional venture capital investments designed to result in a significant potential to create jobs and to diversify and stabilize the economy of the state. The corporation shall not exercise governmental functions and shall not have members. The obligations of the corporation are not obligations of this state or any political subdivision of this state within the meaning of any constitutional or statutory debt limitations, but are obligations of the corporation payable solely and only from the corporation's funds. The corporation shall not and cannot pledge the credit or taxing power of this state or any political subdivision of this state or make its debts payable out of any moneys except those of the corporation.

Sec. 78. Section 29A.90, subsection 3, if enacted by 2002 Iowa Acts, Senate File 2124,³³ section 24, is amended to read as follows:

3. "Military service" means full-time active state service or state active duty, as defined in section 29A.1, for a period of at least ninety consecutive days, commencing on or after the effective date of this division of this Act.

Sec. 79. Section 41.1, subsection 28, Code 2001, as amended by 2001 Iowa Acts, First Extraordinary Session, chapter 1, section 2,³⁴ is amended to read as follows:

28. The twenty-eighth representative district in Dubuque county shall consist of those portions of Dubuque and Table Mound townships and the city of Dubuque bounded by a line commencing at the point Asbury road intersects the east corporate limit of the city of Asbury, then proceeding first south, and then in a clockwise manner along the corporate limits of the city of Asbury until it intersects the west east boundary of Dubuque Center township, then proceeding first south, and then in a clockwise manner along the west boundary of Dubuque Center township until it intersects the east boundary of Vernon township and the corporate

³⁰ Chapter 1006 herein

³¹ Chapter 1006 herein

³² Chapter 1005 herein

³³ Chapter 1117 herein

³⁴ Text of section 41.1, subsection 28, as amended by 2001 Iowa Acts, First Extraordinary Session, chapter 1, §2 appeared in Code Supplement 2001

limits of the city of Dubuque, then proceeding first west south, and then in a counterclockwise manner along the corporate limits of the city of Dubuque until it intersects the south boundary of Dubuque township, then proceeding east along the south boundary of Dubuque township until it intersects the corporate limits of the city of Dubuque, then proceeding first east, and then in a counterclockwise manner along the corporate limits of the city of Dubuque until it intersects the east boundary of Table Mound township, then proceeding north along the boundary of Table Mound township until it intersects the corporate limits of the city of Dubuque, then proceeding first east, and then in a counterclockwise manner along the corporate limits of the city of Dubuque until it intersects the Peosta channel of the Mississippi river, then proceeding southwesterly along the Peosta channel until it intersects East Sixteenth street, then proceeding southwesterly along East Sixteenth street until it intersects Kerper boulevard, then proceeding northerly along Kerper boulevard until it intersects Fengler street, then proceeding northwest along Fengler street until it intersects the I & M Rail Link tracks, then proceeding southwest along the I & M Rail Link tracks until it intersects the extension of Stafford street, then proceeding westerly along the extension of Stafford street until it intersects Garfield avenue, then proceeding southwest along Garfield avenue until it intersects East Twentieth street, then proceeding southwesterly along East Twentieth street until it intersects Central avenue, then proceeding northwest along Central avenue until it intersects West Twenty-third street, then proceeding southwesterly along West Twenty-third street until it intersects Valeria street, then proceeding northwesterly along Valeria street until it intersects Kaufmann avenue, then proceeding southeast along Kaufmann avenue until it intersects Hempstead street, then proceeding southwest along Hempstead street until it intersects Montcrest street, then proceeding westerly along Montcrest street until it intersects Portland street, then proceeding southwest along Portland street until it intersects Abbott street, then proceeding south along Abbott street until it intersects Lowell street, then proceeding east along Lowell street until it intersects Harold street, then proceeding south along Harold street until it intersects Clarke drive, then proceeding easterly along Clarke drive until it intersects Foye street, then proceeding southerly along Foye street until it intersects West Locust street, then proceeding west along West Locust street until it intersects Kirkwood street, then proceeding southwest along Kirkwood street until it intersects Cox street, then proceeding southeast along Cox street until it intersects Loras boulevard, then proceeding southwest along Loras boulevard until it intersects Wood street, then proceeding southeast along Wood street until it intersects University avenue, then proceeding east along University avenue until it intersects Delhi street, then proceeding southwest along Delhi street until it intersects West Fifth street, then proceeding southeast along West Fifth street until it intersects College street, then proceeding southerly along College street until it intersects West Third street, then proceeding southwest along West Third street until it intersects North Grandview avenue, then proceeding south along North Grandview avenue until it intersects Hale street, then proceeding west along Hale street until it intersects North Algona street, then proceeding north along North Algona street until it intersects Bennett street, then proceeding west along Bennett street until it intersects McCormick street, then proceeding northerly along McCormick street until it intersects Mineral street, then proceeding west along Mineral street until it intersects O'Hagen street, then proceeding north along O'Hagen street until it intersects Pearl street, then proceeding west along Pearl street until it intersects Finley street, then proceeding northwest along Finley street until it intersects University avenue, then proceeding northeast along University avenue until it intersects Asbury road, then proceeding northwesterly along Asbury road until it intersects Wilbricht lane, then proceeding west along Wilbricht lane until it intersects Flora Park road, then proceeding southwesterly along Flora Park road until it intersects Pennsylvania avenue, then proceeding west along Pennsylvania avenue until it intersects Churchill drive, then proceeding north along Churchill drive until it intersects St. Anne drive, then proceeding west along St. Anne drive until it intersects Carter road, then proceeding north along Carter road until it intersects Hillcrest road, then proceeding west along Hillcrest road until it intersects John F. Kennedy road, then proceeding north along John F. Kennedy road until it intersects Hillcrest road, then proceeding west along Hillcrest road until it intersects Key Largo drive, then proceeding south along Key Largo drive until it intersects Keymeer

drive, then proceeding east along Keymeer drive until it intersects Key Way drive, then proceeding south along Key Way drive until it intersects the north fork of Catfish creek, then proceeding west along the north fork of Catfish creek until it intersects the extension of Winne court, then proceeding north along Winne court and its extension until it intersects Hillcrest road, then proceeding east along Hillcrest road until it intersects the north branch of the north fork of Catfish creek, then proceeding northwesterly along the north branch of the north fork of Catfish creek until it intersects the northwest branch of the north fork of Catfish creek, then proceeding northwest along the northwest branch of the north fork of Catfish creek until it intersects Asbury road, then proceeding west along Asbury road to the point of origin.

Sec. 80. Section 53.7, subsection 2, Code 2001, as amended by 2002 Iowa Acts, House File 2409,³⁵ section 11, is amended to read as follows:

2. It is unlawful for any public officer or employee, or any person acting under color of a public officer or employee, to knowingly require a public employee to solicit an application or request ~~for~~ an application for an absentee ballot, or to knowingly ~~requires that~~ require an employee to take an affidavit or request for an affidavit in connection with an absentee ballot application.

Sec. 81. Section 256F.4, subsections 1 and 3, if enacted by 2002 Iowa Acts, Senate File 348,³⁶ section 4, are amended to read as follows:

1. Within fifteen days after approval of a charter school application submitted in accordance with section 256F.3, subsection 2, a school board shall report to the department the name of the charter school applicant ~~entry~~, the proposed charter school location, and its projected enrollment.

3. A charter school shall not discriminate in its student admissions policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, or status as a person with a disability. However, a charter school may limit admission to students who are within a particular range of ~~age~~ ages or ~~grade level~~ levels or on any other basis that would be legal if initiated by a school district. Enrollment priority shall be given to the siblings of students enrolled in a charter school.

Sec. 82. Section 303A.7, subsection 1, as enacted by 2002 Iowa Acts, House File 2571,³⁷ section 8, is amended to read as follows:

1. An Iowa cultural trust grant account is created in the office of the treasurer of state under the control of the board to receive interest attributable to the investment of trust fund moneys as required by section 303A.4, subsection 4. The moneys in the grant account are appropriated to the board for purposes of the Iowa cultural trust created in section 303A.4. Moneys in the grant account shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes of the Iowa cultural trust. The treasurer of state shall act as custodian of the grant account and disburse moneys contained in the grant account as directed by the board. The board shall make expenditures from the grant account consistent with the purposes of the Iowa cultural trust.

Sec. 83. Section 356.36A, as enacted by 2002 Iowa Acts, Senate File 2278,³⁸ section 1, is amended to read as follows:

356.36A CONFINEMENT AND DETENTION REPORT — DESIGN PROPOSALS.

The division of criminal and juvenile justice planning of the department of human rights, in consultation with the department of corrections, the Iowa county attorneys association, the Iowa state sheriff's association, the Iowa association of chiefs of police and peace officers, a statewide organization representing rural property taxpayers, the Iowa league of cities, and the Iowa board of supervisors association, shall prepare a report analyzing the confinement and detention needs of jails and facilities established pursuant to ~~chapter~~ chapters 356 and 356A. The report for each type of jail or facility shall include but is not limited to an inventory of prisoner space, daily prisoner counts, options for detention of prisoners with mental illness

³⁵ Chapter 1071 herein

³⁶ Chapter 1124 herein

³⁷ Chapter 1115 herein

³⁸ Chapter 1051 herein

or substance abuse service needs, and the compliance status under section 356.36 for each jail or facility. The report shall contain an inventory of recent jail or facility construction projects in which voters have approved the issuance of general obligation bonds, essential county purpose bonds, revenue bonds, or bonds issued pursuant to chapter 422B. The report shall be revised periodically as directed by the administrator of the division of criminal and juvenile justice planning. The first submission of the report shall include recommendations on offender data needed to estimate jail space needs in the next two, three, and five years, on a county, geographic region, and statewide basis, which may be based upon information submitted pursuant to section 356.49.

Sec. 84. Section 359.49, subsection 7A, unnumbered paragraph 1, as enacted by 2002 Iowa Acts, House File 2448,³⁹ section 1, is amended to read as follows:

A township that has entered into an agreement with a municipality to receive fire protection service or emergency medical service from the municipality may request that a portion of its taxes be paid directly to the municipality providing the fire protection service or emergency medical service. Each year, the township must note its request on the budget and must attach a copy of the emergency services agreement to each copy of the budget transmitted to the county auditor. The auditor shall direct the county treasurer as to what portion of the township taxes to disburse to the municipality providing the fire protection service or emergency medical service.

Sec. 85. Section 453A.58, subsection 1, paragraph a, as created in 2002 Iowa Acts, Senate File 2317,⁴⁰ section 4, if enacted, is amended to read as follows:

a. The tobacco product manufacturer of the brand, or any predecessor tobacco product manufacturer of the brand, is a participating manufacturer ~~in compliance with~~ as described in section 453C.2, subsection 1.

Sec. 86. Section 453A.58, subsection 2, as created in 2002 Iowa Acts, Senate File 2317,⁴¹ section 4, if enacted, is amended to read as follows:

2. A distributor shall not affix stamps or cause stamps to be affixed to individual packages of any brand of cigarettes, subsequent to notice to the distributor by the department of revenue and finance that the tobacco product manufacturer is ~~in violation of chapter 453C~~ not in compliance with subsection 1 with reference to that brand.

Sec. 87. Section 453A.59, subsection 1, paragraph a, as created in 2002 Iowa Acts, Senate File 2317,⁴² section 5, if enacted, is amended to read as follows:

a. A participating manufacturer ~~pursuant to~~ described in section 453C.2, subsection 1.

Sec. 88. Section 490.732, subsection 4, if enacted by 2002 Iowa Acts, House File 2509,⁴³ section 22, is amended to read as follows:

4. An agreement authorized by this section shall cease to be effective when shares of the corporation are listed on a national securities exchange or regularly ~~traded~~ traded in a market maintained by one or more members of a national or affiliated securities association. If the agreement ceases to be effective for any reason, the board of directors may, if the agreement is contained or referred to in the corporation's articles of incorporation or bylaws, adopt an amendment to the articles of incorporation or bylaws, without shareholder action, to delete the agreement and any references to it.

Sec. 89. Section 490.853, subsection 3, unnumbered paragraph 1, if enacted by 2002 Iowa Acts, House File 2509,⁴⁴ section 47, is amended to read as follows:

Authorizations under this section shall be made according to ~~the~~ one of the following:

³⁹ Chapter 1056 herein

⁴⁰ Chapter 1163 herein

⁴¹ Chapter 1163 herein

⁴² Chapter 1163 herein

⁴³ Chapter 1154 herein

⁴⁴ Chapter 1154 herein

Sec. 90. Section 490.1003, subsection 2, if enacted by 2002 Iowa Acts, House File 2509,⁴⁵ section 56, is amended to read as follows:

2. Except as provided in ~~section~~ sections 490.1005, 490.1007, and 490.1008, after adopting the proposed amendment, the board of directors must submit the amendment to the shareholders for their approval. The board of directors must also transmit to the shareholders a recommendation that the shareholders approved the amendment, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation, in which case the board of directors must transmit to the shareholders the basis for the determination.

Sec. 91. Section 490.1303, subsection 2, paragraph b, Code 2001, as amended by 2002 Iowa Acts, House File 2509,⁴⁶ section 80, if enacted, is amended to read as follows:

b. Does so with respect to all shares of the class of ~~or~~ or series that are beneficially owned by the beneficial shareholder.

Sec. 92. Section 524.814, Code 2001, is amended to read as follows:
524.814 PLEDGE OF ASSETS.

Pursuant to a resolution of its board of directors, a state bank may lend or pledge its assets for the following purposes, and for no other purposes:

1. To secure deposits of the state bank or a bank that is an affiliate of the state bank when a customer is required to obtain such security, or a bank is required to provide security, by the laws of the United States, by any agency or instrumentality of the United States, by the laws of the state of Iowa, by the state board of regents, by a resolution or ordinance relating to the issuance of bonds, by the terms of any interstate compact or by order of any court of competent jurisdiction. The lending of securities to a bank that is an affiliate, or the pledging of securities for the account of a bank that is an affiliate, shall be on terms and conditions that are consistent with safe and sound banking practices.

2. To secure money borrowed by the state bank, provided that capital notes or debentures issued pursuant to section 524.404 shall not in any event be secured by a pledge of assets or otherwise.

3. To secure participations sold to the federal agricultural mortgage corporation.

Sec. 93. Section 633.4213, subsection 1, Code Supplement 2001, as amended by 2002 Iowa Acts, House File 2531,⁴⁷ section 12, if enacted, is amended to read as follows:

1. The trustee shall inform each qualified beneficiary of ~~their~~ the beneficiary's right to receive an annual accounting and a copy of the trust instrument. The trustee shall also inform each qualified beneficiary about the process necessary to obtain an annual accounting or a copy of the trust instrument, if not provided. The trustee shall further inform the beneficiary whether the beneficiary will, or will not, receive an annual accounting if the beneficiary fails to take any action. If a beneficiary has previously been provided the notice required by this section, additional notice shall not be required due to a change of trustees or a change in the composition of the qualified beneficiaries.

Sec. 94. Section 724.26, as amended by 2002 Iowa Acts, House File 2363,⁴⁸ section 4, is amended to read as follows:

724.26 POSSESSION, RECEIPT, TRANSPORTATION, OR DOMINION AND CONTROL OF FIREARMS AND OFFENSIVE WEAPONS BY FELONS.

A person who is convicted of a felony in a state or federal court, or who is adjudicated delinquent on the basis of conduct that would constitute a felony if committed by an adult, and who knowingly has under the person's dominion and control or possession, ~~or~~ receives, or transports or causes to be transported a firearm or offensive weapon is guilty of a class "D" felony.

⁴⁵ Chapter 1154 herein

⁴⁶ Chapter 1154 herein

⁴⁷ Chapter 1107 herein

⁴⁸ Chapter 1055 herein; see also 2002 Iowa Acts, Second Extraordinary Session, chapter 1003, §243, 262 herein

Sec. 95. 2001 Iowa Acts, chapter 174, section 1, subsection 1, unnumbered paragraph 3, as enacted by 2002 Iowa Acts, Senate File 2315,⁴⁹ section 4, is amended to read as follows:

For the fiscal year beginning July 1, 2002, and ending June 30, 2003, of the \$75,000,000 to be deposited in the endowment for Iowa's health account of the tobacco settlement trust fund under this subsection, ~~the first~~ \$20,000,000 is appropriated to the department of management to pay that part of foundation aid which represents the allowable growth amounts for all school districts. An appropriation from the general fund of the state for foundation aid which is supplanted by the appropriation made in this subsection, shall be reduced by the amount of the appropriation which supplants it.

Sec. 96. 2002 Iowa Acts, Senate File 348,⁵⁰ section 14, if enacted, is amended to read as follows:

SEC. 14. EXPEDITED APPLICATION PROCEDURE. The state board of education shall develop an expedited charter school application procedure for the fiscal year beginning July 1, ~~2003~~ 2002, for purposes of receiving federal planning funds issued pursuant to the federal Elementary and Secondary Education Act of 1965, Title X, Part C, as codified in 20 U.S.C. § 8061-8067.

Sec. 97. 2002 Iowa Acts, Senate File 2326,⁵¹ section 38, subsection 2, if enacted, is amended to read as follows:

2. If House File ~~2524~~ 2617⁵² is enacted by the Seventy-ninth General Assembly, 2002 Session, the amount appropriated in subsection 1 shall be increased by \$38,000. The increased amount shall be used to fill a vacant position in the dairy products control bureau.

Sec. 98. 2002 Iowa Acts, Senate File 2326,⁵³ section 175, subsection 2, unnumbered paragraph 2, if enacted, is amended to read as follows:

If total approved claims for reimbursement for nonpublic school pupil transportation claims exceed the amount appropriated in this ~~section~~ subsection, the department of education shall prorate the amount of each claim.

Sec. 99. 2002 Iowa Acts, House File 2378,⁵⁴ section 10, subsection 1, if enacted, is amended to read as follows:

1. Section 4 of this Act, amending section 15E.193C, subsections 2, 5, and 10, Code Supplement 2001, being deemed of immediate importance, takes effect April 30, 2002, and, if approved by the governor after April 30, 2002, shall apply retroactively to April 30, 2002.

Sec. 100. 2002 Iowa Acts, Senate File 2275,⁵⁵ sections 170 through 174, if enacted, are repealed.

Sec. 101. 2002 Iowa Acts, House File 2453,⁵⁶ section 6, if enacted, is repealed.

Sec. 102. EFFECTIVE DATE. The sections in this division of this Act amending new Code section 29A.90, subsection 3, and 2002 Iowa Acts, Senate File 348,⁵⁷ section 14, being deemed of immediate importance, take effect upon enactment.

Sec. 103. CONTINGENT EFFECTIVE DATE. The section in this division of this Act amending section 524.814 is effective contingent upon the enactment of 2002 Iowa Acts, House File 681.⁵⁸

⁴⁹ Chapter 1167 herein

⁵⁰ Chapter 1124 herein

⁵¹ Chapter 1171 herein

⁵² Chapter 1148 herein

⁵³ Chapter 1171 herein

⁵⁴ Chapter 1145 herein

⁵⁵ Chapter 1119 herein

⁵⁶ Chapter 1098 herein

⁵⁷ Chapter 1124 herein

⁵⁸ Chapter 1096 herein

DIVISION IV
MH/MR/DD — FY 2003-2004 ALLOWED GROWTH

Sec. 104. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES ALLOWED GROWTH FACTOR ADJUSTMENT AND ALLOCATIONS — FISCAL YEAR 2003-2004. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2003, and ending June 30, 2004, 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:

..... \$ 19,073,638

1. The funding appropriated in this section is the allowed growth factor adjustment for fiscal year 2003-2004, and is allocated as follows:

a. For distribution as provided in this section:

..... \$ 17,073,638

b. For deposit in the risk pool created in the property tax relief fund and for distribution in accordance with section 426B.5, subsection 2:

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

2. The following formula amounts shall be utilized only to calculate preliminary distribution amounts for fiscal year 2003-2004 under this section by applying the indicated formula provisions to the formula amounts and producing a preliminary distribution total for each county:

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

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

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

..... \$ 12,492,712

c. For calculation of a distribution amount for counties from the mental health and developmental disabilities (MH/DD) community services fund in accordance with the formula provided in 2002 Iowa Acts, Senate File 2326,⁵⁹ section 119, subsection 1:

..... \$ 18,127,352

3. Notwithstanding any contrary provisions of sections 225C.7, 331.438, subsection 2, 331.439, subsection 3, and 426B.5, the moneys allocated for distribution in subsection 1, paragraph "b", and in any other Act of the Eightieth General Assembly, 2003 Session, for distribution to counties in the fiscal year beginning July 1, 2003, 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 and as calculated under subsection 2 to produce preliminary distribution amounts for counties shall be subject to withholding as provided in this section.

4. After applying the applicable statutory distribution formulas to the amounts indicated in subsection 2 for purposes to produce preliminary distribution totals, the department of human services shall apply a withholding factor to adjust an eligible individual county's preliminary distribution total. An ending balance percentage for each county shall be determined by expressing the county's ending balance on a modified accrual basis under generally accepted accounting principles for the fiscal year beginning July 1, 2002, in the county's mental health, mental retardation, and developmental disabilities services fund created under section 331.424A, as a percentage of the county's gross expenditures from that fund for that fiscal year. The withholding factor for a county shall be the following applicable percent:

⁵⁹ Chapter 1171 herein

- a. For an ending balance percentage of less than 10 percent, a withholding factor of 0 percent.
- b. For an ending balance percentage of 10 through 24 percent, a withholding factor of 25 percent.
- c. For an ending balance percentage of 25 through 34 percent, a withholding factor of 60 percent.
- d. For an ending balance percentage of 35 through 44 percent, a withholding factor of 85 percent.
- e. For an ending balance percentage of 45 percent or more, a withholding factor of 100 percent.

5. The total withholding amounts applied pursuant to subsection 4 shall be equal to a withholding target amount of \$7,419,074 and the appropriation enacted by the Eightieth General Assembly, 2003 Session, for the MH/DD community services fund shall be reduced by the amount necessary to attain the withholding target amount. If the department of human services determines that the amount to be withheld in accordance with subsection 4 is not equal to the target withholding amount, the department shall adjust the withholding factors listed in subsection 4 as necessary to achieve the withholding target amount. However, in making such adjustments to the withholding factors, the department shall strive to minimize changes to the withholding factors for those ending balance percentage ranges that are lower than others and shall not adjust the zero withholding factor specified in subsection 4, paragraph "a".

6. A county must comply with both the requirements listed in this subsection to be 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. Both of the following requirements are applicable:

- a. A county must comply with the December 1, 2003, filing deadline for the county annual financial report in accordance with section 331.403.
- b. A county must levy the⁶⁰ not less than 70 percent of the maximum amount allowed for the county's mental health, mental retardation, and developmental disabilities services fund under section 331.424A for taxes due and payable in the fiscal year beginning July 1, 2003.

7. The department of human services shall authorize the issuance of warrants payable to the county treasurer for the distribution amounts due the counties eligible under this section and notwithstanding prior practice for the MH/DD community services fund, the warrants shall be issued in January 2004.

DIVISION V
APPROPRIATION ADJUSTMENTS

Sec. 105. SECRETARY OF STATE. 2002 Iowa Acts, Senate File 2326,⁶¹ section 23, subsection 2, if enacted, is amended to read as follows:

2. BUSINESS SERVICES

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

	\$	1,433,235
		<u>1,533,235</u>
	FTEs	32.00

Sec. 106. 2002 Iowa Acts, Senate File 2326,⁶² section 79, subsections 17 and 18, if enacted, are amended to read as follows:

17. STUDENT ACHIEVEMENT AND TEACHER QUALITY PROGRAM

For purposes, as provided in law, of the student achievement and teacher quality program established pursuant to chapter 284:

	\$	7,750,000
		<u>16,100,000</u>

Notwithstanding section 8.33, any moneys remaining unencumbered or unobligated from the moneys allocated as provided in this subsection shall not revert but shall remain available

⁶⁰ According to enrolled Act
⁶¹ Chapter 1171 herein
⁶² Chapter 1171 herein

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 subsection.

18. COMMUNITY COLLEGES

For general state financial aid, including general financial aid to merged areas in lieu of 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:

..... \$ 137,585,680
138,585,680

The funds appropriated in this subsection shall be allocated as follows:

a. Merged Area I	\$ 6,602,820	<u>6,650,811</u>
b. Merged Area II	\$ 7,755,900	<u>7,812,271</u>
c. Merged Area III	\$ 7,205,055	<u>7,257,423</u>
d. Merged Area IV	\$ 3,521,678	<u>3,547,274</u>
e. Merged Area V	\$ 7,367,785	<u>7,421,336</u>
f. Merged Area VI	\$ 6,826,113	<u>6,875,727</u>
g. Merged Area VII	\$ 9,849,174	<u>9,920,760</u>
h. Merged Area IX	\$ 12,113,770	<u>12,201,815</u>
i. Merged Area X	\$ 19,011,042	<u>19,149,218</u>
j. Merged Area XI	\$ 20,177,551	<u>20,324,204</u>
k. Merged Area XII	\$ 7,949,367	<u>8,007,145</u>
l. Merged Area XIII	\$ 8,174,348	<u>8,233,761</u>
m. Merged Area XIV	\$ 3,563,670	<u>3,589,571</u>
n. Merged Area XV	\$ 11,213,616	<u>11,295,119</u>
o. Merged Area XVI	\$ 6,253,791	<u>6,299,245</u>

Sec. 107. REGENTS INSTITUTIONS. The amounts appropriated from the general fund of the state to the state board of regents for the state university of Iowa, the Iowa state university of science and technology, and the university of northern Iowa, in 2002 Iowa Acts, Senate File 2326,⁶³ section 81, subsections 2, 3, and 4, if enacted, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, are reduced by the following amount:

..... \$ 5,000,000

The state board of regents shall apply the reduction made in this section to the appropriations made to the indicated institutions in a manner so that an institution's appropriation is reduced in proportion to the amount the institution's appropriation in 2002 Iowa Acts, Senate File 2326,⁶⁴ section 81, bears to the total amount appropriated in that section to the three institutions.

Sec. 108. MEDICAL ASSISTANCE. 2002 Iowa Acts, Senate File 2326,⁶⁵ section 104, unnumbered paragraph 2, if enacted, is amended to read as follows:

For medical assistance reimbursement and associated costs as specifically provided in the

⁶³ Chapter 1171 herein
⁶⁴ Chapter 1171 herein
⁶⁵ Chapter 1171 herein

reimbursement methodologies in effect on June 30, 2002, 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:

..... \$ 416,607,073
412,907,073

Sec. 109. CHILDREN’S HEALTH INSURANCE PROGRAM. 2002 Iowa Acts, Senate File 2326,⁶⁶ section 106, unnumbered paragraph 2, if enacted, 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:

..... \$ 9,958,412
11,458,412

Sec. 110. 2002 Iowa Acts, Senate File 2326,⁶⁷ section 172, if enacted, is amended to read as follows:

SEC. 172. 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, 2002, and ending June 30, 2003, is reduced by the following amount:

..... \$ 11,750,000
14,000,000

Sec. 111. UNDERGROUND STORAGE TANK FUND. Notwithstanding section 455G.3, subsection 1, there is transferred from the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, subsection 1, to the department of education during the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, to be used for the purposes designated:

For purposes, as provided in law, of the student achievement and teacher quality program established pursuant to chapter 284:

..... \$ 8,900,000

Moneys transferred in this section are appropriated to the department to be used for the purposes designated. 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. The provisions of section 8.39 do not apply to the moneys appropriated in this section.

Sec. 112. PREMIUM TAX REVENUES. Notwithstanding any provision of law to the contrary, if 2002 Iowa Acts, Senate File 2318,⁶⁸ is enacted, before any premium tax revenues are credited to the general fund of the state for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount of the revenues first received is appropriated to the department of education for the fiscal year beginning July 1, 2002, and ending June 30, 2003, to be used for the purposes designated:

For purposes, as provided in law, of the student achievement and teacher quality program established pursuant to chapter 284:

..... \$ 10,000,000

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 for the purposes designated until the close of the succeeding fiscal year. The provisions of section 8.39 do not apply to the moneys appropriated in this section.

Sec. 113. REBUILD IOWA INFRASTRUCTURE FUND — GAMBLING REVENUES. Notwithstanding section 8.57, subsection 5, there is transferred from pari-mutuel wagering and gambling revenues credited to the rebuild Iowa infrastructure fund created in section 8.57,

⁶⁶ Chapter 1171 herein
⁶⁷ Chapter 1171 herein
⁶⁸ Chapter 1158 herein

subsection 5, for public vertical infrastructure projects, to the department of education for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, to be used for the purposes designated:

For purposes, as provided in law, of the student achievement and teacher quality program established pursuant to chapter 284:

..... \$ 5,000,000

Moneys transferred in this section are appropriated to the department to be used for the purposes designated. 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. The provisions of section 8.39 do not apply to the moneys appropriated in this section.

Approved May 10, 2002, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Secretary Culver:

I hereby transmit House File 2623, an Act relating to public funding provisions involving the compensation and benefits for public officials and employees, county mental health allowed growth, regulatory and other properly related matters of the state, making and reducing appropriations, and providing effective dates.

This Administration has made clear from day one that our top priority for Iowa is education. Over the past four years, our investment in education has paid tremendous dividends in more quality teachers, smaller classes, and better results. We have seen record interest in higher education, record enrollment in our colleges, and record employment in our workforce. House File 2623 makes an important investment in Iowa's K - 12 schools by funding the student achievement and teacher quality program. This is a vital investment not only in our young people, but also in the future of our state.

House File 2623 is, therefore, signed on this date with the following exceptions, which I hereby disapprove.

I am unable to approve Section 17. This section would eliminate the requirement that innovation projects produce savings and eliminates the standing appropriation to repay the Innovations Fund for savings that do not accrue directly to a department. This would reduce the flexibility of the program.

I am unable to approve Sections 18, 19, 20, 21, 33, 34 and 35. This administration has continually supported improvement of customer service to Iowa citizens through the use of information technology and advanced telecommunications services. The use of credit card transactions as a way to pay for certain government services is one example of this commitment to improved customer service. We will continue to support efforts to improve customer service, however, the above referenced sections of this bill relating to the use of credit card transactions, while well intended, would adversely impact these efforts as well as the citizens of Iowa. There is no funding provided to departments to make system changes required to allow the intake of credit card payments. In addition, the language does not allow for the capture of transaction fees associated with credit card processing. A credit card payment system without the proper technology and funding to support it will result in poor system performance and customer dissatisfaction.

I am unable to approve Section 42, which amends section 556.12, subsection 1, relating to notice and publication requirements of unclaimed property, commonly referred to as The

Great Iowa Treasure Hunt. This language is contrary to Section Nine of the Uniform Unclaimed Property Act of 1995, which section 556.12, subsection 1 is based on; and the proposed language would unduly restrict the flexibility of the State Treasurer in scheduling the workload of personnel available to return property to Iowans.

I am unable to approve Section 49. This section requires the departments of personnel, information technology and general services to identify duplicative job responsibilities throughout state government and report these positions to the Oversight Committee by Sept. 1, 2002. These determinations on an enterprise-wide basis are already being done.

I am unable to approve Section 52. This section requires the departments of agriculture and natural resources to file a written report on a quarterly basis with the appropriations subcommittee regarding all expenditures of moneys during the quarter and the number of FTEs allocated during the quarter. This information is obtainable by the Legislative Fiscal Bureau from the state's accounting and personnel systems, and no mandate is needed to enable legislators to access it.

I am unable to approve Sections 57 and 59. These sections would eliminate the Scope of Practice Review Committee (SPRC) related to the Department of Public Health. This is the only science-based forum available to work out scope of practice issues between health care professions. Most health care organizations do not support eliminating the SPRC: three-fourths of the Iowa health care providers in a recent survey favored keeping the SPRC process as it is or keeping it with some modifications.

I am unable to approve Section 58. This section would make the appropriation to the division on the Status of African-Americans contingent on the appointment of all nine members to the Commission on the Status of African-Americans. This language raises the prospect that the entire budget for the division would be in jeopardy anytime there is a vacancy on the commission. It is not appropriate to unfairly single out one commission for a different standard, and this is not a precedent we want to set for any commission.

I am unable to approve Section 65. This section limits the costs for riverboat enforcement that can be billed to riverboats, which is an amount less than 100% of costs for riverboat enforcement in fiscal year 2003. If retained, this would act as a cap in future years, which would generate a lower percentage of actual costs in each future fiscal year. The limitation on track gaming creates a situation where there are not sufficient expenditures in track gaming and pari-mutuel to even approach an additional \$420,000. This provision would lead to a reduction in revenue that is not reflected in the Legislature's budget assumptions.

I am unable to approve Sections 66 and 67. Section 66 amends the 2002 Iowa Acts, Senate File 2326, section 175, subsection 14 pertaining to Public Transit Assistance, by striking the subsection. I have approved the funding of Public Transit Assistance as provided in Senate File 2326, section 175, subsection 14. Section 67 proposes to reduce the amount appropriated from the General Fund of the state to the Department of Transportation for Public Transit Assistance for fiscal year 2002, by \$1,107,938. These dollars have already been allocated and likely spent by local public transit systems. To seek their repayment would have serious impacts on public transit services.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2623 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

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374	1026	2155	1061	2278	1051
415	1110	2156	1032	2279	1111
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2051	1009	2201	1050	2305	1150
2057	1160	2203	1065	2309	1095
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2084	1011	2207	1012	2316	1143
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2116	1030	2231	1034	2321	1161
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2112	1013	2378	1145	2538	1073
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2135	1078	2395	1018	2546	1094
2138	1036	2399	1081	2547	1108
2139	1014	2404	1114	2549	1152
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2153	1039	2418	1082	2571	1115
2183	1024	2430	1146	2582	1170
2190	1040	2446	1106	2584	1153
2191	1144	2447	1133	2585	1122
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2193	1112	2453	1098	2587	1109
2201	1080	2454	1083	2591	1141
2229	1041	2467	1057	2592	1123
2230	1042	2472	1134	2613	1172
2245	1165	2475	1021	2614	1173
2246	1043	2482	1084	2615	1174
2248	1053	2487	1025	2616	1147
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¹ Enacted in Code 2003

² Text of section 41.1(28) as amended by 2001 Iowa Acts, First Extraordinary Session, chapter 1, §2 appeared in Code Supplement 2001

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VETERANS HOME

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2002 Second Extraordinary Session
of the
Seventy-Ninth General Assembly
of the
State of Iowa

HELD AT DES MOINES, THE CAPITAL OF THE STATE
SECOND EXTRAORDINARY SESSION HELD ON THE TWENTY-EIGHTH DAY OF MAY, A.D. 2002
IN THE ONE HUNDRED FIFTY-SIXTH YEAR OF THE STATE

CHAPTER 1001

MISCELLANEOUS APPROPRIATIONS, REDUCTIONS, TRANSFERS,
AND OTHER PROVISIONS — FISCAL YEAR 2001-2002

H.F. 2625

AN ACT addressing public funding provisions and properly related matters by making, reducing, and transferring appropriations, adjusting other expenditures for the fiscal year beginning July 1, 2001, and including other appropriations, cooperative tax credits, and effective and retroactive applicability date provisions.

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

DIVISION I
GENERAL FUND TRANSFERS

Section 1. 2002 Iowa Acts, Senate File 2304,¹ section 15, is amended to read as follows:

SEC. 15. ENVIRONMENT FIRST FUND. Notwithstanding section 8.57A, subsection 3, there is transferred from the environment first fund created in section 8.57A to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

.....	\$	3,000,000
		<u>4,700,000</u>

Sec. 2. IOWA ECONOMIC EMERGENCY FUND.

1. There is appropriated from the Iowa economic emergency fund created in section 8.55 to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary:

.....	\$	105,000,000
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¹ 2002 Iowa Acts, Regular Session, chapter 1166 herein

2. The appropriation made in this section is declared to be made for emergency expenditures as required in section 8.55, subsection 3, paragraph “a”.

Sec. 3. CASH RESERVE FUND.

1. Notwithstanding section 8.56, subsection 4, paragraph “a”, there is appropriated from the cash reserve fund to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount, or so much thereof as is necessary:

..... \$ 90,000,000

2. The appropriation made in this section is declared to be made for nonrecurring emergency expenditures as required in section 8.56, subsections 3 and 4.

Sec. 4. TERMINAL LIABILITY HEALTH INSURANCE FUND. Notwithstanding section 421.46, there is transferred from the terminal liability health insurance fund created in section 421.46 to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

..... \$ 133,000

Sec. 5. REGENTS INFRASTRUCTURE. Of the moneys appropriated to the state board of regents in 1997 Iowa Acts, chapter 215, section 23, subsection 1, and allocated for phase II construction of the engineering teaching and research complex at Iowa state university of science and technology, there is transferred to the general fund of the state for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount:

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

Sec. 6. STATE BOARD OF REGENTS — ENGINEERING COMPLEX — BONDING.

There is appropriated from the rebuild Iowa infrastructure fund to the state board of regents for the fiscal year beginning July 1, 2003, and ending June 30, 2004, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For repayment of the bonding for the phase II construction of the engineering teaching and research complex at Iowa state university of science and technology, as authorized in this section:

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

Moneys appropriated in this section are not subject to transfer.

1. The state board of regents is authorized to issue bonds as provided in chapter 262A in an amount not exceeding \$7 million, except as provided in subsection 2, to undertake and carry out completion of the engineering teaching and research phase II construction at Iowa state university of science and technology and to finance the remaining cost of the project.

2. Notwithstanding the limitation established in subsection 1, the amount of bonds issued as authorized in subsection 1 may be exceeded by the amount the state board of regents determines to be necessary to capitalize interest, bond reserves, and issuance costs.

Sec. 7. CONTINGENT APPROPRIATION.

1. For purposes of determining the balance of the Iowa economic emergency fund available for making an appropriation to the general fund pursuant to section 8.55, subsection 3, paragraph “c”, an amount equal to the \$25,000,000 appropriation in 2002 Iowa Acts, Senate File 2315,² section 5, subsection 2, shall be considered to be obligated. For the fiscal year beginning July 1, 2001, and ending June 30, 2002, in addition to an appropriation made pursuant to section 8.55, subsection 3, paragraph “c”, there is appropriated from the cash reserve fund an amount equal to the difference between \$50 million and the amount appropriated from the Iowa economic emergency fund as authorized by section 8.55, subsection 3, paragraph “c”.

2. Notwithstanding section 8.55, subsection 3, paragraph “d”, an appropriation shall not be made from the general fund of the state to the Iowa economic emergency fund for the following fiscal year due to an appropriation being made pursuant to section 8.55, subsection 3, paragraph “c”, or subsection 1 of this section.

² 2002 Iowa Acts, Regular Session, chapter 1167 herein

Sec. 8. CASH RESERVE APPROPRIATION FOR FY 2002-2003. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, the appropriation to the cash reserve fund provided in section 8.57, subsection 1, paragraph "a", shall not be made. However, any surplus in the general fund of the state for the fiscal year beginning July 1, 2002, and ending June 30, 2003, shall be transferred to the cash reserve fund.

Sec. 9. LEGISLATIVE PER DIEM PAYMENT. Notwithstanding section 2.10, subsection 6, for the special session that convenes May 28, 2002, the members of the general assembly are not entitled to and shall not receive the sum of eighty-six dollars per day for each day the general assembly is actually in special session, but shall receive the same travel allowances and expenses as authorized by section 2.10. This section is retroactively applicable to May 28, 2002.

DIVISION II
MEDICAL ASSISTANCE PROGRAM TRANSFERS

Sec. 10. SPECIAL CONSERVATION FUND — SNOWMOBILE FEES. Notwithstanding section 321G.7, there is transferred from snowmobile fees credited to the special conservation fund created in section 321G.7 to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For medical assistance reimbursement and associated costs in accordance with law:
..... \$ 950,000

Sec. 11. SPECIAL CONSERVATION FUND — ALL-TERRAIN VEHICLE FEES. Notwithstanding section 321G.7, there is transferred from all-terrain vehicle fees credited to the special conservation fund created in section 321G.7 to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For medical assistance reimbursement and associated costs in accordance with law:
..... \$ 775,000

Sec. 12. ENVIRONMENT FIRST FUND. Notwithstanding section 8.57A, subsection 3, there is transferred from the environment first fund created in section 8.57A to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For medical assistance reimbursement and associated costs in accordance with law:
..... \$ 1,000,000

Sec. 13. STRATEGIC INVESTMENT FUND. Notwithstanding section 15.313, subsection 2, there is transferred from the strategic investment fund created in section 15.313 to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For medical assistance reimbursement and associated costs in accordance with law:
..... \$ 2,000,000

Sec. 14. PHYSICAL INFRASTRUCTURE ASSISTANCE FUND. Notwithstanding section 15E.175, subsection 2, there is transferred from the physical infrastructure assistance fund created in section 15E.175 to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For medical assistance reimbursement and associated costs in accordance with law:
..... \$ 2,500,000

Sec. 15. ALTERNATIVE DRAINAGE SYSTEM ASSISTANCE FUND. Notwithstanding section 159.29A, subsection 3, there is transferred from the alternative drainage system assistance fund created in section 159.29A to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For medical assistance reimbursement and associated costs in accordance with law:
 \$ 1,100,000

Sec. 16. TERMINAL LIABILITY HEALTH INSURANCE FUND. Notwithstanding section 421.46, there is transferred from the terminal liability health insurance fund created in section 421.46 to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For medical assistance reimbursement and associated costs in accordance with law:
 \$ 325,000

Sec. 17. AIRPORT ENGINEERING STUDIES AND IMPROVEMENT PROJECTS. There is transferred from the appropriation to the state department of transportation for airport engineering studies and improvement projects in 2001 Iowa Acts, chapter 180, section 1, subsection 1, to the department of human services for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For medical assistance reimbursement and associated costs in accordance with law:
 \$ 347,000

DIVISION III
 TRANSFERS FOR OTHER PURPOSES

Sec. 18. TERMINAL LIABILITY HEALTH INSURANCE FUND — INDIGENT DEFENSE. Notwithstanding section 421.46, there is transferred from the terminal liability health insurance fund created in section 421.46 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 to be used for the purpose designated:

For indigent defense costs:
 \$ 2,740,000

Sec. 19. ENVIRONMENT FIRST FUND — STATE APPEAL BOARD CLAIMS. Notwithstanding section 8.57A, subsection 3, there is transferred from the environment first fund created in section 8.57A, to the state appeal board for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For state appeal board claims under sections 25.2 and 669.11:
 \$ 1,500,000

Sec. 20. VICTIM COMPENSATION FUND — UNEMPLOYMENT COMPENSATION. Notwithstanding section 915.94, there is transferred from the victim compensation fund created in section 915.94 to the unemployment compensation account under the control of the department of revenue and finance for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For payment of state employee unemployment compensation claims:
 \$ 1,000,000

Sec. 21. ENVIRONMENT FIRST FUND — PERFORMANCE OF DUTY. Notwithstanding section 8.57A, subsection 3, there is transferred from the environment first fund created in section 8.57A to the executive council for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For performance of duty under section 7D.29, section 18.12, and section 29C.20:
 \$ 100,000

Sec. 22. TERMINAL LIABILITY HEALTH INSURANCE FUND — PERFORMANCE OF DUTY. Notwithstanding section 421.46, subsection 3, there is transferred from the terminal liability health insurance fund created in section 421.46 to the executive council for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For performance of duty under section 7D.29, section 18.12, and section 29C.20:
 \$ 300,000

Sec. 23. VALUE-ADDED AGRICULTURAL PRODUCTS — ELDERLY AND DISABLED PROPERTY TAX CREDIT. Notwithstanding section 15E.112, subsection 1, there is transferred from the value-added agricultural products and processes financial assistance fund created in section 15E.112 to the elderly and disabled property tax credit and reimbursement fund created in section 425.39 for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For payment of renters' claims for the fiscal year beginning July 1, 2001, under the elderly and disabled credit and reimbursement portion of the extraordinary property tax and reimbursement division of chapter 425:
 \$ 250,000

Sec. 24. TERMINAL LIABILITY HEALTH INSURANCE FUND — ELDERLY AND DISABLED PROPERTY TAX CREDIT. Notwithstanding section 421.46, subsection 3, there is transferred from the terminal liability health insurance fund created in section 421.46 to the elderly and disabled property tax credit and reimbursement fund created in section 425.39 for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the following amount to be used for the purpose designated:

For payment of renters' claims for the fiscal year beginning July 1, 2001, under the elderly and disabled credit and reimbursement portion of the extraordinary property tax and reimbursement division of chapter 425:
 \$ 180,000

DIVISION IV
 RESERVE FUNDS

Sec. 25. Section 8.55, subsection 2, paragraph a, as enacted by 2002 Iowa Acts, House File 2075,³ section 1, is amended to read as follows:

a. The maximum balance of the fund is the amount equal to ~~five~~ two and one-half percent of the adjusted revenue estimate for the fiscal year. If the amount of moneys in the Iowa economic emergency fund is equal to the maximum balance, moneys in excess of this amount shall be transferred to the general fund.

Sec. 26. Section 8.55, subsection 2, paragraphs c and d, as enacted by 2002 Iowa Acts, House File 2075,⁴ section 1, are amended to read as follows:

c. Notwithstanding paragraph "a", 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 each fiscal year and after the appropriate amount has been transferred pursuant to paragraph "b", shall not be transferred to the general fund of the state but shall be transferred to the senior living trust fund. The total amount transferred, in the aggregate, under this paragraph for all fiscal years shall not exceed ~~thirty-five~~ fifty-one million five hundred thousand dollars.

d. Notwithstanding paragraph "a", 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 each fiscal year and after the appropriate amount have been transferred pursuant to paragraphs "b" and "c" 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

³ 2002 Iowa Acts, Regular Session, chapter 1169 herein

⁴ 2002 Iowa Acts, Regular Session, chapter 1169 herein

fund. The total amount transferred, in the aggregate, under this paragraph for all fiscal years shall not exceed the difference between ~~fifty-one~~ sixty million five hundred thousand dollars and the amounts transferred to the endowment for Iowa's health account to repay the amounts transferred or appropriated from the endowment for Iowa's health account in 2002 Iowa Acts, House File 2245,⁵ 2002 Iowa Acts, Senate File 2304,⁶ and 2002 Iowa Acts, Senate File 2315,⁷ and 2002 Iowa Acts, Second Extraordinary Session, House File 2627.⁸

Sec. 27. Section 8.56, subsection 4, paragraph b, Code Supplement 2001, is amended to read as follows:

b. In addition to the requirements of paragraph "a", an appropriation shall not be made from the cash reserve fund which would cause the fund's balance to be less than three ~~and three-fourths~~ percent of the adjusted revenue estimate for the year for which the appropriation is made unless the bill or joint resolution is approved by vote of at least three-fifths of the members of both chambers of the general assembly and is signed by the governor.

Sec. 28. Section 8.57, subsection 1, paragraph a, Code Supplement 2001, is amended to read as follows:

a. The "cash reserve goal percentage" for fiscal years beginning on or after July 1, ~~1995~~ 2003, is ~~five~~ seven and one-half percent of the adjusted revenue estimate. For each fiscal year beginning on or after July 1, ~~1995~~ 2003, in which the appropriation of the surplus existing in the general fund of the state at the conclusion of the prior fiscal year pursuant to paragraph "b" was not sufficient for the cash reserve fund to reach the cash reserve goal percentage for the current fiscal year, there is appropriated from the general fund of the state an amount to be determined as follows:

(1) If the balance of the cash reserve fund in the current fiscal year is not more than ~~four~~ six and one-half percent of the adjusted revenue estimate for the current fiscal year, the amount of the appropriation under this lettered paragraph is one percent of the adjusted revenue estimate for the current fiscal year.

(2) If the balance of the cash reserve fund in the current fiscal year is more than ~~four~~ six and one-half percent but less than ~~five~~ seven and one-half percent of the adjusted revenue estimate for that fiscal year, the amount of the appropriation under this lettered paragraph is the amount necessary for the cash reserve fund to reach ~~five~~ seven and one-half percent of the adjusted revenue estimate for the current fiscal year.

(3) The moneys appropriated under this lettered paragraph shall be credited in equal and proportionate amounts in each quarter of the current fiscal year.

Sec. 29. Section 8.57, subsection 5, paragraph b, Code Supplement 2001, is amended to read as follows:

b. Moneys in the infrastructure fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the infrastructure fund shall be credited to the infrastructure fund. Moneys in the infrastructure fund may be used for cash flow purposes during a fiscal year provided that any moneys so allocated are returned to the infrastructure fund by the end of that fiscal year.

Sec. 30. Section 249H.4, subsection 4, Code 2001, as amended by 2002 Iowa Acts, Senate File 2201,⁹ section 26, is amended to read as follows:

4. The trust fund shall be operated in accordance with the guidelines of the centers for Medicare and Medicaid services of the United States department of health and human services. The trust fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state. The moneys in the trust fund shall not be considered revenue of the state, but rather shall be funds of the senior living program. The moneys deposited in the trust fund are not subject to section 8.33 and shall not be transferred,

⁵ 2002 Iowa Acts, Regular Session, chapter 1165 herein

⁶ 2002 Iowa Acts, Regular Session, chapter 1166 herein

⁷ 2002 Iowa Acts, Regular Session, chapter 1167 herein

⁸ Chapter 1003 herein

⁹ 2002 Iowa Acts, Regular Session, chapter 1050 herein

used, obligated, appropriated, or otherwise encumbered, except to provide for the purposes of this chapter. Moneys in the trust fund may be used for cash flow purposes during a fiscal year provided that any moneys so allocated are returned to the trust fund by the end of that fiscal year. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the trust fund shall be credited to the trust fund.

Sec. 31. NEW SECTION. 249H.4A PENDING SENIOR LIVING TRUST FUND.

A pending senior living trust fund is created in the state treasury under the authority of the department of human services. Moneys received through intergovernmental agreements for the senior living program but not yet available for appropriation are to be deposited into this fund. When the moneys are determined to be available for appropriation, they shall be transferred to the senior living trust fund established in section 249H.4. Moneys in the fund may be used for cash flow purposes during the fiscal year provided that any moneys so allocated are returned to the fund by the end of that fiscal year.

Sec. 32. USE OF REVERSIONS. Notwithstanding section 8.62, if on June 30 of fiscal year 2001-2002 or fiscal year 2002-2003, a balance of an operational appropriation, as defined in section 8.62, remains unexpended or unencumbered, the balance shall revert to the general fund of the state as provided in section 8.33.

Sec. 33. EFFECTIVE DATE — APPLICABILITY. The amendments to the following designated Code provisions in this division of this Act take effect July 1, 2003:

1. Section 8.55, subsection 2, paragraph “a”.
2. Section 8.56, subsection 4, paragraph “b”.
3. Section 8.57, subsection 1, paragraph “a”.

DIVISION V
OTHER MEDICAL ASSISTANCE PROGRAM PROVISIONS

*Sec. 34. NEW SECTION. 249A.9 REPORTING REQUIREMENTS — PHARMACEUTICAL COPAYMENT.

1. *The department shall require applicants for or recipients of medical assistance to report, on a monthly basis, changes in income or resources that affect eligibility.*
2. *The department shall require recipients of medical assistance to pay the following copayment on each covered drug prescription, including each refill as follows:*
 - a. *A copayment of one dollar for each covered generic drug prescription.*
 - b. *A copayment of one dollar for each covered brand-name drug prescription for which the cost to the state is less than twenty-five dollars.*
 - c. *A copayment of two dollars for each covered brand-name drug prescription for which the cost to the state is between twenty-five dollars and fifty dollars.*
 - d. *A copayment of three dollars for each covered brand-name drug prescription for which the cost to the state is over fifty dollars.**

DIVISION VI
OTHER PROVISIONS

Sec. 35. Section 12E.12, subsection 8, if enacted by 2002 Iowa Acts, Second Extraordinary Session, House File 2627,¹⁰ section 229, is amended to read as follows:

8. With respect to the payment of certain debt service, the debt service to be paid shall be those installments of debt service on bonds selected by the treasurer of state and identified in the authority’s tax certificate delivered at the time of the issuance of the bonds issued pursuant to this chapter, or as otherwise selected by the treasurer of state. Once the bonds and the installments of debt service thereon are so selected, that debt service and bonds shall not be paid, or provided to be paid, from any other source including the state or any of its departments or

* Item veto; see message at end of the Act

¹⁰ Chapter 1003 herein

agencies. Provided, however, that if funds are not appropriated to pay debt service on such bonds when due, the issuing agency shall pay such debt service from any available source as provided in the bond covenants for such bonds.

Sec. 36. NEW SECTION. 249A.21 INTERMEDIATE CARE FACILITIES FOR PERSONS WITH MENTAL RETARDATION — ASSESSMENT.

1. The department may assess intermediate care facilities for persons with mental retardation, as defined in section 135C.1, that are not operated by the state, a fee in an amount not to exceed six percent of the total annual revenue of the facility for the preceding fiscal year.

2. The assessment shall be paid to the department in equal monthly amounts on or before the fifteenth day of each month. The department may deduct the monthly amount from medical assistance payments to a facility described in subsection 1. The amount deducted from payments shall not exceed the total amount of the assessments due.

3. Revenue from the assessments shall be credited to the state medical assistance appropriation. This revenue may be used only for services for which federal financial participation under the medical assistance program is available to match state funds.

4. If federal financial participation to match the assessments made under subsection 1 becomes unavailable under federal law, the department shall terminate the imposing of the assessments beginning on the date that the federal statutory, regulatory, or interpretive change takes effect.

5. The department of human services may procure a sole source contract to implement the provisions of this section.

**Sec. 37. Section 257.8, subsection 1, Code Supplement 2001, as amended by 2002 Iowa Acts, Senate File 2315, section 1, and 2002 Iowa Acts, Senate File 2328, section 1, is amended to read as follows:*

1. *STATE PERCENT OF GROWTH. The state percent of growth for the budget year beginning July 1, 2002, is one percent. The state percent of growth for the budget year beginning July 1, 2003, is two 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. 38. 2001 Iowa Acts, chapter 188, section 13, is amended to read as follows:

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

Moneys appropriated in this section shall not be appropriated from those moneys in the community attraction and tourism fund that originate from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund.

Sec. 39. UNITED STATES MARSHAL'S SERVICE. For the fiscal year beginning July 1, 2002, regular per diem reimbursement costs billed by the department of corrections to the United States marshal's service for holding detainees shall be deposited entirely into the general fund of the state. However, for the fiscal year beginning July 1, 2002, extraordinary costs, including but not limited to medical costs, billed over the regular daily per diem rate shall be used by the department of corrections to offset the actual costs incurred.

* Item veto; see message at end of the Act

Sec. 40. DUPLICATIVE POSITIONS — VACANT POSITIONS — EDUCATIONAL ASSISTANCE.

*1. *It is the intent of the general assembly that in implementing the provisions of 2002 Iowa Acts, Second Extraordinary Session, House File 2627, section 13, subsection 2, if enacted, the department of personnel shall focus on duplicative job functions in the agencies of the executive branch of state government other than those institutions under the control of the state board of regents. For the institutions under the state board of regents, the state board of regents shall perform the duties required of the department of personnel and shall report to the oversight committee of the legislative council in accordance with 2002 Iowa Acts, Second Extraordinary Session, House File 2627, section 13, subsection 2.**

2. In implementing the requirements of 2002 Iowa Acts, Second Extraordinary Session, House File 2627,¹¹ section 214, if enacted, relating to vacant positions, the department of management shall address table of organization changes other than those relating to the institutions under the control of the state board of regents. Table of organization changes relating to the institutions under the control of the state board of regents shall be implemented by the state board of regents.

*3. *In implementing the requirements of 2002 Iowa Acts, Second Extraordinary Session, House File 2627, section 215, if enacted, relating to educational assistance, the department of management shall ensure compliance for executive branch agencies other than those involving the institutions under the control of the state board of regents. Implementation of a restriction on subsidy or reimbursement for a class or other course of study leading to an advanced degree for an employee of an institution under the control of the state board of regents shall be as determined by the state board of regents.**

Sec. 41. PROGRAM ELIMINATION COMMISSION. 2002 Iowa Acts, Second Extraordinary Session, House File 2627,¹² section 217, subsection 2, paragraph a, if enacted, is amended by striking the paragraph and inserting in lieu thereof the following:

- a. A voting member appointed by the legislative council.

*Sec. 42. STATE LIBRARY REDUCTION — STATE MEDICAL LIBRARY CONTINUATION TASK FORCE.

1. *Funds appropriated to the department of education for purposes of the state library pursuant to 2002 Iowa Acts, Senate File 2326, section 79, subsection 5, paragraph "a", as reduced by House File 2627, section 87, are further reduced by the amount of \$108,000. The state library shall apply the reduction to the state medical library.*

2. *It is the intent of the general assembly to eliminate, or remove from the authority of the state library, the state medical library. A state medical library continuation task force is established to determine whether the citizens of this state will continue to benefit from the state medical library, and if so, where the state medical library should be relocated. If the task force recommends relocation of the state medical library, it is the intent of the general assembly that the state medical library continue to be available for free use by the residents of Iowa, give no preference to any school of medicine, and secure books, periodicals, pamphlets, and electronic textbooks, including but not limited to computer software, applications using computer-assisted instruction, interactive videodisc, and other computer courseware and magnetic media for every legally recognized school of medicine without discrimination. If the task force finds and recommends elimination of the state medical library, the task force shall propose a plan for distribution of the assets of the state medical library. The task force shall consist of the state librarian or the state librarian's designee, and a representative of the state board of regents, the Iowa medical society, the Iowa hospital association, and the osteopathic medical association. The state librarian shall serve as chairperson. Meetings shall be held at the call of the chairperson or a majority of the members of the task force. At any meeting of the task force, a majority of the members shall constitute a quorum. The task force shall submit its recommendation for continuation or elimination of the state medical library, and any plan for distribution of state medical library assets, in a report to the chairpersons and ranking members*

* Item veto; see message at end of the Act

¹¹ Chapter 1003 herein

¹² Chapter 1003 herein

*of the senate and house standing committees on education and the joint appropriations subcommittee on education by December 1, 2002. **

Sec. 43. 2002 Iowa Acts, Second Extraordinary Session, House File 2627,¹³ section 221, if enacted, is amended to read as follows:

SEC. 221. IMPLEMENTATION OF FURLOUGHS. ~~Furloughs~~ It is the intent of the general assembly that furloughs implemented pursuant to this division shall not be implemented in a manner which results in more than 25 percent of the workforce within an agency division being on furlough at the same time. However, if implementation of this section would conflict with existing law or a collective bargaining agreement, the agency shall take every step possible to minimize the impact on the agency's customers and the public. The agency shall work with representatives of affected businesses to develop a plan for meeting the businesses' needs during a furlough period and when other funding reductions are implemented.

Sec. 44. 2002 Iowa Acts, House File 2614,¹⁴ section 2, unnumbered paragraph 2, as amended by 2002 Iowa Acts, Second Extraordinary Session, House File 2627,¹⁵ section 226, if enacted, is amended to read as follows:

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, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

.....	\$	9,127,635
		<u>10,503,733</u>

Sec. 45. MEDICAL ASSISTANCE REDUCTION. The appropriation made in 2002 Iowa Acts, Second Extraordinary Session, House File 2627,¹⁶ from the general fund of the state for medical assistance reimbursement and associated costs for the fiscal year beginning July 1, 2002, and ending June 30, 2003, is reduced by the following amount:

.....	\$	3,700,000
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Sec. 46. EFFECTIVE DATE. This division of this Act takes effect July 1, 2002, except for the provision of this division amending 2001 Iowa Acts, chapter 188, section 13, relating to tourism operations, which, being deemed of immediate importance, takes effect upon enactment.

DIVISION VII
COOPERATIVE TAX CREDITS

Sec. 47. Section 15.333, subsections 1 and 2, Code Supplement 2001, as amended by 2002 Iowa Acts, Senate File 2275,¹⁷ section 5, are 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 receive a refund of 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

* Item veto; see message at end of the Act

¹³ Chapter 1003 herein

¹⁴ 2002 Iowa Acts, Regular Session, chapter 1173 herein

¹⁵ Chapter 1003 herein

¹⁶ Chapter 1003 herein

¹⁷ 2002 Iowa Acts, Regular Session, chapter 1119 herein

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, S corporation, limited liability company, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, 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, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust.

PARAGRAPH DIVIDED. 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.

2. 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 for 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. For purposes of this section, an eligible business also includes a cooperative described in section 521 of the Internal Revenue Code which is required to file an Iowa corporate income tax return and whose project primarily involves the production of ethanol. Such cooperative may elect to transfer all or a portion of its tax credit to its members. The amount of tax credit transferred and claimed by a member shall be based upon the pro rata share of the member's earnings of the cooperative.

PARAGRAPH DIVIDED. 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, and 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 except as provided in this subsection for a cooperative described in section 521 of the Internal Revenue Code which is required to file an Iowa corporate income tax return and whose project primarily involves the production of ethanol. 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 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. 48. Section 15E.193C, subsection 7, paragraph a, Code Supplement 2001, is amended to read as follows:

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 reha-

bilitation 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, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, 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, cooperative organized under chapter 501 and filing as a partnership for federal tax purposes, or estate or trust.

Sec. 49. APPLICABILITY DATE. This division of this Act applies retroactively to January 1, 2002, for tax years beginning on or after that date.

DIVISION VIII
SICK LEAVE AND VACATION INCENTIVE PROGRAM EXTENSION

Sec. 50. SICK LEAVE AND VACATION INCENTIVE PROGRAM — FISCAL YEAR 2002-2003.

1. As used in this section, unless the context provides otherwise:
 - a. "Credited service" means service under the Iowa public employees' retirement system, as service is defined in section 97B.1A, and membership service under the public safety peace officers' retirement, accident, and disability system, as defined in section 97A.1.
 - b. "Eligible employee" means an employee for which, but for participation in the program, the sum of the number of years of credited service and the employee's age in years as of December 31, 2003, equals or exceeds seventy-five.
 - c. "Employee" means an employee of the executive branch of the state who is not covered by a collective bargaining agreement, including an employee of a judicial district department of correctional services if the district elects to participate in the program, an employee of the state board of regents if the board elects to participate in the program, an employee of the judicial branch if the judicial branch elects to participate in the program, and an employee of the department of justice. However, "employee" does not mean an elected official.
 - d. "Participant" means a person who timely submits an election to participate, and does participate, in the sick leave and vacation incentive program established under this section.
 - e. "Program" means the sick leave and vacation incentive program established under this section.
 - f. "Regular annual salary" means an amount equal to the eligible employee's regular bi-weekly rate of pay as of the date of separation from employment multiplied by twenty-six.
 - g. "Sick leave and vacation incentive benefit" means an amount equal to the entire value of an eligible employee's accumulated but unused vacation plus the lesser of the entire value of the eligible employee's accumulated and unused sick leave or the employee's regular annual salary.
2. To become a participant in the program, an eligible employee shall do all of the following:
 - a. Submit by August 14, 2002, a written application, on forms prescribed by the department of personnel, seeking participation in the program.
 - b. Agree to waive any and all rights to receive payments of sick leave balances under section 70A.23 and accrued vacation balances in a form other than as provided in this section.
 - c. Agree to waive all rights to file suit against the state of Iowa, including all of its departments, agencies, and other subdivisions, based on state or federal claims arising out of the employment relationship.
 - d. Acknowledge, in writing, that participation in the program waives any right to accept permanent part-time or permanent full-time employment with the state other than as an elected official on or after August 15, 2002.
 - e. Agree to separate from employment with the state by August 15, 2002.

3. Upon acceptance to participate in the program and separation from employment with the state by August 15, 2002, a participant shall receive a sick leave and vacation incentive benefit. The state shall pay to the participant a portion of the sick leave and vacation incentive benefit each fiscal year for a period of five years commencing with the fiscal year ending June 30, 2003.

4. The department of personnel shall administer the program, including the determination of eligibility for participation in the program, and shall adopt administrative rules to administer the program. The department may adopt rules on an emergency basis under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement this section and the rules shall be effective immediately upon filing unless a later date is specified in the rules.

5. The legislative council shall provide an incentive program for employees of the legislative branch consistent with the program provided in this section for executive branch employees. The legislative council shall collaborate with the department of personnel to establish the program as required under this subsection. The program provided pursuant to this subsection shall establish the same time guidelines and benefit calculations as provided under the program for executive branch employees.

Sec. 51. EARLY TERMINATION PROGRAMS — MISCELLANEOUS PROVISIONS.

1. DEFINITIONS. For purposes of this section, unless the context otherwise requires:

a. "Early termination participant" means an eligible state employee who participates in an early termination program.

b. "Early termination program" means a sick leave and vacation incentive program as established or required in this Act and the similar early termination program established for state employees as established pursuant to a collective bargaining agreement entered into pursuant to chapter 20.

2. GROUP INSURANCE ELIGIBILITY. An early termination participant shall be eligible to continue participation in the group plan or under the group contract at the early termination participant's own expense in the same manner as a retired employee pursuant to section 509A.13. In addition, an early termination participant shall be deemed an eligible retired state employee for purposes of eligibility for continuation of group insurance covering spouses as provided in section 509A.13A.

3. RELEASE OF RECORDS. Notwithstanding any provision of chapter 22 or section 97B.17 to the contrary, records of the department of personnel maintained for the operation of the Iowa public employees' retirement system may be released to the directors, agents, and employees of the legislative fiscal bureau, the department of revenue and finance, the department of management, and the department of personnel, for the purposes of administering and monitoring an early termination program. A person receiving a record pursuant to this subsection shall maintain the confidentiality of any information otherwise required to be kept confidential and shall be subject to the same penalties as the custodian of the records for the public dissemination of such information. The authority to request a record as provided pursuant to this subsection shall cease June 30, 2003.

4. REPORTING REQUIREMENTS. The department of personnel, in collaboration with the department of management, shall present a report by October 1, 2002, concerning the operation of early termination programs as provided in this Act. The reports shall be submitted in conjunction with the reports required to be submitted by the department of personnel pursuant to 2001 Iowa Acts, Second Extraordinary Session, chapter 5, section 4. The department shall also submit an annual update concerning early termination programs as provided in this Act by October 1 of each year for four years, commencing October 1, 2003. The reports shall include information concerning the number of early termination program participants, the cost of the early termination program including any payments made to participants, the number of state employment positions eliminated pursuant to an early termination program, the number of positions vacated by an early termination program participant that have been re-filled, and the savings to the state based upon the early termination program.

5. SAVINGS. a. For an executive branch position vacated by an early termination participant pursuant to an early termination program, the savings from that termination, as deter-

mined by the department of management, shall offset amounts that would otherwise be reduced from the appropriation to the executive branch department or establishment that employed the participant due to the implementation of a furlough program. The moneys saved by the department or establishment due to the termination would then be used by the department or establishment to reduce or end the furlough program as it would otherwise apply to the employees of that department or establishment, to the extent of the savings. If savings in excess of the amounts reduced by the department of management for the applicable executive branch department or establishment are received, and the furlough program for that department or establishment ceases, those moneys shall not revert to the general fund but shall be transferred to the applicable executive branch department or establishment for personnel costs which shall not be expended for personnel costs without prior approval of the department of management.

b. For a judicial or legislative branch position vacated by an early termination participant pursuant to an early termination program, the savings from that termination, as determined by the judicial or legislative branch as applicable, shall offset amounts that would otherwise be reduced from the appropriation to the legislative or judicial branch that employed the participant due to the implementation of a furlough program. The moneys saved by the legislative or judicial branch due to the termination would then be used by the branch to reduce or end the furlough program as it would otherwise apply to the employees of that branch, to the extent of the savings.

6. ACROSS-THE-BOARD WAGE INCREASE DELAY. If an employee organization representing state employees agrees to an across-the-board wage increase delay as provided in this subsection and to participate in an early termination program as provided in this Act, then any across-the-board wage increases for employees of the same state employer, who are not covered by a collective bargaining agreement, which would otherwise take effect at the beginning of the pay period in which July 1, 2002, falls, shall be delayed until the pay period in which November 1, 2002, falls.

DIVISION IX
EFFECTIVE DATE

Sec. 52. EFFECTIVE DATE. Unless otherwise provided, this Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 4, 2002, with exceptions noted.

THOMAS J. VILSACK, *Governor*

Dear Secretary Culver:

I hereby transmit House File 2625, an Act addressing public funding provisions and properly related matters by making, reducing, and transferring appropriations, adjusting other expenditures for the fiscal year beginning July 1, 2001, and including other appropriations, cooperative tax credits, and effective and retroactive applicability date provisions.

With the Revenue Estimating Conference's recent action to decrease general fund resources available to the State by \$205.5 million in fiscal year 2002, I took responsible action in calling a special session to take the necessary steps to balance the budget. House File 2625 is the result of a plan that I worked with legislators in developing to solve the budget shortfall for the current year. The plan included a series of funding transfers that allow us to continue to provide the priority services of Iowans.

However, the bill has several provisions which I cannot support. I oppose the Republicans' continuous assault on our senior citizens by attempting to raise prescription drug costs on Iowans in need. I have vetoed their attempt to double the copayments on prescription drugs

in the past, and I will do so again. I also cannot support the Republicans' plan to add an unnecessary, burdensome layer of bureaucracy and cost to the delivery of medical assistance. The burdens created for some Iowa families and seniors are simply unacceptable.

House File 2625 is, therefore, signed on this date with the following exceptions, which I hereby disapprove.

I am unable to approve Division V, Section 34 in its entirety. This provision would increase the cost of prescription drugs for Iowans most in need. This, in effect, is a tax on a group — aged, blind, disabled, children, caretakers with very little or no income. Additionally, if the individuals do not have the funds, the pharmacist is required to dispense the drug anyway. This requires pharmacists to subsidize the costs and creates an additional reluctance on the part of pharmacists to handle Medicaid patients.

Section 34 would also require additional bureaucracy and associated costs by calling for monthly reporting requirements for those who experience a change in income, mailing address, household composition, or health insurance. In doing so, the Legislature would be creating an additional layer of bureaucracy, and an additional layer of cost to process the monthly reports. This new bureaucratic requirement is particularly unnecessary, considering the Department of Human Services already requires Iowans in need who receive medical assistance to report changes in such factors.

I am unable to approve Section 37. This section removes the requirement that the Legislature establish the state percent of allowable growth in funding for our local school districts within the first 30 days of a legislative session. This provision was developed to ensure the State's commitment to education was made up front and did not get bogged down in last minute budget negotiations and to provide adequate planning time for school districts. Now, more than ever, when education is our state's top priority, we must maintain that commitment to our local schools.

I am unable to approve Section 40, subsection 1. This section requires the departments of personnel to identify duplicative job responsibilities throughout state government and report these positions to the Oversight Committee. These determinations on an enterprise-wide basis are already being done.

I am unable to approve Section 40, subsection 3. This Administration has made every attempt to provide quality educational opportunities for all Iowans. This section denies the opportunity for state workers to access educational assistance. With a shrinking state workforce, it is more important than ever to make sure the remaining professionals have the training and education they need to effectively serve Iowans. I believe this option should be maintained.

I am unable to approve Section 42. This section eliminates state funding to the State Medical Library. The Legislature had intended to shift this funding from the Medical Library to the Department of Cultural Affairs for cultural grants, but the bill failed to complete the transfer. While the Republican Legislature eliminates the Medical Library funding, they also establish a task force charged with determining whether to continue the State Medical Library; and if so, where it should be located. The Medical Library provides essential educational materials and diagnostic and research searches for health professionals and students. Closing this valuable resource for many Iowans is shortsighted and unnecessary.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2625 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

CHAPTER 1002

APPROPRIATIONS — TRANSPORTATION

H.F. 2626

AN ACT relating to and making transportation and other infrastructure-related appropriations to the state department of transportation, including allocation and use of moneys from the road use tax fund and the primary road fund, and providing for the nonreversion of certain moneys and providing effective dates.

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

Section 1. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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, 2003, 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:	\$ 4,987,919
b. Administrative services:	\$ 515,899
c. Planning:	\$ 461,698
d. Motor vehicles:	\$ 26,841,204
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:	\$ 54,314
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 costs associated with the rewrite of the vehicle registration system:	\$ 5,000,000
12. For costs associated with the participation in the Mississippi river parkway commission:	\$ 40,000

Sec. 2. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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:		
.....	\$	30,831,081
.....	FTEs	267.00
b. Administrative services:		
.....	\$	3,169,101
.....	FTEs	37.00
c. Planning:		
.....	\$	8,772,302
.....	FTEs	146.00
d. Highways:		
.....	\$	166,244,000
.....	FTEs	2,482.00
e. Motor vehicles:		
.....	\$	1,098,796
.....	FTEs	526.00
2. 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
3. Unemployment compensation:	\$	328,000
4. 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
5. For disposal of hazardous wastes from field locations and the central complex:	\$	800,000
6. For payment to the general fund for indirect cost recoveries:	\$	748,000
7. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:	\$	336,036
8. For costs associated with producing transportation maps:	\$	275,000
9. For replacement of roofs according to the department's priority list at field facilities throughout the state:	\$	400,000
10. For the federal Americans With Disabilities Act accessibility improvements to department facilities throughout the state:	\$	200,000
11. For renovation of the state department of transportation administration building at the Ames complex:	\$	2,000,000
12. For utility improvements at field garage facilities throughout the state:	\$	200,000
13. For replacement of the heating systems in field garage facilities throughout the state:	\$	200,000
14. For deferred maintenance projects at field facilities:	\$	351,500

Notwithstanding section 8.33, moneys appropriated in subsections 9 through 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, 2005.

Sec. 3. Section 312.2, subsection 14, Code Supplement 2001, is amended to read as follows:

14. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the ~~general fund of the state~~ department of transportation from revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "b", an amount equal to one-twentieth of eighty percent of the revenue from the operation of section 423.7~~1~~.

~~There is appropriated from the general fund of the state for each fiscal year to the state department of transportation the amount of revenues credited to the general fund of the state during the fiscal year under this subsection to be used for purposes of public transit assistance under chapter 324A.~~

Sec. 4. EFFECTIVE DATES.

1. Except as otherwise provided in subsection 2, this Act, being deemed of immediate importance, takes effect July 1, 2002.

2. The section of this Act amending section 312.2, subsection 14, takes effect July 1, 2004.

Approved June 4, 2002

CHAPTER 1003

MISCELLANEOUS APPROPRIATIONS, REDUCTIONS, TRANSFERS,
AND OTHER PROVISIONS — 2002-2003 AND PRIOR FISCAL YEARS

H.F. 2627

AN ACT making, reducing, and transferring appropriations, and providing for other properly related matters, providing penalties, and including effective and applicability date provisions.

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

DIVISION I
ADMINISTRATION AND REGULATION

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, 2002, and ending June 30, 2003, 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:

.....	\$	1,078,972
.....	FTEs	105.47

The auditor of state may retain additional full-time equivalent positions as is reasonable and necessary to perform governmental subdivision audits which are reimbursable pursuant 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, 2002, and ending June 30, 2003, 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:

.....	\$	410,760
.....	FTEs	6.00

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, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. ALCOHOLIC BEVERAGES DIVISION

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

.....	\$	1,803,044
.....	FTEs	33.00

2. BANKING DIVISION

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

.....	\$	6,036,125
.....	FTEs	72.00

3. CREDIT UNION DIVISION

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

.....	\$	1,282,995
.....	FTEs	19.00

4. INSURANCE DIVISION

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

.....	\$	3,770,164
.....	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) Notifies the department of management, the legislative fiscal bureau, and the legislative fiscal committee of the need for the expenditures.

(2) Files with each of the entities named in subparagraph (1) the legislative and regulatory justification for the expenditures, along with an estimate of the expenditures.

5. PROFESSIONAL LICENSING AND REGULATION DIVISION

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

.....	\$	748,342
.....	FTEs	11.00

b. Notwithstanding the provisions of section 543B.14 to the contrary, all fees and charges collected by the real estate commission under chapter 543B shall be paid into the general fund of the state, except that for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the equivalent of thirty dollars per year of the fees for each real estate salesperson's license, plus the equivalent of thirty dollars per year of the fees for each broker's license shall be paid into the Iowa real estate education fund created in section 543B.54.

6. UTILITIES DIVISION

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

.....	\$	6,104,810
.....	FTEs	79.00

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.

The utilities division shall assess the office of consumer advocate within the department of justice a pro rata share of the operating expenses of the utilities division. 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. 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.

*7. ACCOUNTABLE GOVERNMENT REPORT

*Each division of the department of commerce shall submit a report to the cochairpersons and ranking members of the joint appropriations subcommittee on administration and regulation on or before January 13, 2003, which encompasses the reporting requirements provided in Code chapter 8E, including development of an agency strategic plan, performance measures, performance targets based on performance data, performance data, and data sources used to evaluate the agency performance, and explanations of the plan's provisions.**

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, 2002, and ending June 30, 2003, 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 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, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION AND PROPERTY MANAGEMENT

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

.....	\$	5,271,304
.....	FTEs	152.60

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:

.....	\$	236,037
.....	FTEs	5.00

* Item veto; see message at end of the Act

3. RENTAL SPACE

For payment of lease or rental costs of buildings and office space as provided in section 18.12, subsection 9, notwithstanding section 18.16:

..... \$ 846,770

The department shall prepare a summary of lease and rental agreements entered into by the department with information concerning the location of leased property, the funding source for each lease, and the cost of the lease. The summary shall be submitted to the general assembly by January 13, 2003.

4. UTILITY COSTS

For payment of utility costs and for not more than the following full-time equivalent position:

..... \$ 1,817,095

..... FTEs 1.00

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, 2003.

5. The department of general services shall identify all positions throughout state government that have job responsibilities that are duplicative of the same or similar job functions that are performed by similar positions in the department of general services. The positions throughout state government that are duplicative of positions in the department of general services shall be identified by department, position title, and position pay grade. The department of general services shall also determine if the department can perform the functions of the duplicated position. The department shall submit a report, with findings, conclusions, and supporting data, to the oversight committee of the general assembly by September 1, 2002.

Sec. 6. REVOLVING FUNDS. There is appropriated from the designated revolving funds to the department of general services for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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:

..... \$ 1,118,960

..... 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, 2002, and ending June 30, 2003, which are legally payable from this fund.

3. STATE FLEET ADMINISTRATOR

a. From the state fleet administrator revolving fund established by section 18.119 for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 881,501

..... FTEs 16.75

b. The state fleet administrator shall conduct a study concerning the utilization of state-owned vehicles by state government that are under the control of the administrator pursuant to section 18.114. As part of the study, the state fleet administrator shall investigate the cost and benefits of entering into an agreement with an entity that leases or rents vehicles for the purpose of providing vehicles from that source for use by state government. The study shall also examine what revenue may be generated as a result of the sale of state-owned vehicles. The state fleet administrator shall submit a report to the general assembly by January 13, 2003, concerning the progress of the administrator in meeting the goal of reducing the number of

* Item veto; see message at end of the Act

state-owned vehicles. The report shall include all relevant data concerning the study, any actions taken to reduce the number of state-owned vehicles, and any proposed legislative changes needed to implement the goal of reducing the number of state-owned vehicles.

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, 2002, and ending June 30, 2003, 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:

.....	\$	1,328,025
.....	FTEs	29.55

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, 2002, and ending June 30, 2003, which are legally payable from this fund.

Sec. 7. 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, 2002, and ending June 30, 2003, 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:

.....	\$	1,270,595
.....	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:

.....	\$	100,519
.....	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:

.....	\$	132,113
.....	FTEs	3.00

4. NATIONAL GOVERNORS ASSOCIATION

For payment of Iowa's membership in the national governors association:

.....	\$	64,393
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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:

.....	\$	106,802
.....	FTEs	2.00

Sec. 8. 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, 2002, and ending June 30, 2003, 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:	
.....	\$ 714,101
.....	FTEs 24.00
2. Administrative hearings division	
For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:	
.....	\$ 472,240
.....	FTEs 30.00
3. Investigations division	
For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:	
.....	\$ 1,376,587
.....	FTEs 46.00
4. Health facilities division	
For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:	
.....	\$ 2,276,504
.....	FTEs 108.00
5. Inspections division	
For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:	
.....	\$ 759,066
.....	FTEs 13.00
6. Employment appeal board	
For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:	
.....	\$ 34,172
.....	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.	
7. Child advocacy board	
For foster care review and the court appointed special advocate program, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:	
.....	\$ 1,711,033
.....	FTEs 44.00
a. The department of human services, in coordination with the child advocacy 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 child advocacy board, administrative review costs.	
b. It is the intent of the general assembly that the court appointed special advocate program investigate and develop opportunities for expanding fund-raising for the program.	
c. The child advocacy board shall report to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation and the legislative fiscal bureau by August 31, 2002, providing a budget for the appropriation made in this subsection. The budget shall delineate the expenditures planned for foster care review, the court appointed special advocate program, joint expenditures, and other pertinent information. The board shall submit to the same entities a report of the actual expenditures at the close of the fiscal year.	

d. Administrative costs charged by the department of inspections and appeals for items funded under this subsection shall not exceed 4 percent of the amount appropriated in this subsection.

Sec. 9. RACING AND GAMING COMMISSION.

1. 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, 2002, and ending June 30, 2003, 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:

.....	\$	2,083,762
.....	FTEs	24.78

Of the funds appropriated in this subsection, \$85,576 shall be used to conduct an extended harness racing season.

2. 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, 2002, and ending June 30, 2003, 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:

.....	\$	1,602,611
.....	FTEs	30.97

*3. ACCOUNTABLE GOVERNMENT REPORT

*The racing and gaming commission shall submit a report to the cochairpersons and ranking members of the joint appropriations subcommittee on administration and regulation on or before January 13, 2003, which encompasses the reporting requirements provided in Code chapter 8E, including development of an agency strategic plan, performance measures, performance targets based on performance data, performance data, and data sources used to evaluate the agency performance, and explanations of the plan's provisions.**

Sec. 10. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	1,197,552
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Sec. 11. 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, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. GENERAL OFFICE — STATEWIDE PROPERTY TAX ADMINISTRATION

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

.....	\$	2,100,036
.....	FTEs	33.00

2. ENTERPRISE RESOURCE PLANNING

If funding is provided for the redesign of the enterprise resource planning budget system for the fiscal year beginning July 1, 2002, then there is appropriated from the general fund of the

* Item veto; see message at end of the Act

state to the department of management 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 salaries, support, maintenance, and miscellaneous purposes for administration of the enterprise resource planning system, and for not more than the following full-time equivalent position:

.....	\$	58,680
.....	FTEs	1.00

3. STATE GOVERNMENT ADMINISTRATIVE SERVICES REORGANIZATION

The department of management, in consultation with other administrative departments, shall continue to study and pursue the goal of providing for the reorganization of state government in order to facilitate the efficient and effective delivery of state government services. The reorganization study shall concentrate on establishing a new state organization that will increase the efficiency of managing the major resources of state government, including personnel, financial, physical, and information assets, in order to provide better service at less cost to all departments of state government and the citizens of Iowa. As part of this study, the department shall identify and examine areas where duplicative services are performed by state government which may be more efficiently accomplished by a reorganization and redesign of state government. In addition, as part of this reorganization study, support services provided to state agencies should be reoriented to continuously improve service and lower costs through a strong customer focus and entrepreneurial management. The department of management shall submit a report, including its findings, conclusions, and specific recommendations for legislative change, to the general assembly by December 2, 2002.

Sec. 12. 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, 2002, and ending June 30, 2003, 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
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Sec. 13. 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, 2002, and ending June 30, 2003, 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. For salaries, support, maintenance, and miscellaneous purposes for the director's staff, research, communications and workforce planning services, data processing, financial services, 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:

.....	\$	3,723,868
.....	FTEs	86.00

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.

2. The department of personnel shall identify all positions throughout state government that have job responsibilities that are duplicative of the same or similar job functions that are performed by similar positions in the department of personnel. The positions throughout state government that are duplicative of positions in the department of personnel shall be identified by department, position title, and position pay grade. The department of personnel shall also determine if the department can perform the functions of the duplicated position. The department shall submit a report, with findings, conclusions, and supporting data, to the oversight committee of the general assembly by September 1, 2002.

* Item veto; see message at end of the Act

Sec. 14. **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, 2002, and ending June 30, 2003, 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

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. 15. **IPERS.** There is appropriated from the Iowa public employees' retirement system fund to the department of personnel 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 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:¹

..... \$ 8,062,203

..... FTEs 90.04

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. 16. **IPERS — DEFERRED RETIREMENT OPTION PROGRAM AND TERMINATED VESTED MEMBER STUDIES.** There is appropriated from the Iowa public employees' retirement system fund to the Iowa public employees' retirement system division for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For expenses related to the study of the implementation of a cost-neutral deferred retirement option plan as directed in 2002 Iowa Acts, House File 2532:²

..... \$ 95,000

2. For expenses related to the study of the implementation of a new option for terminated vested members as directed in 2002 Iowa Acts, House File 2532:³

..... \$ 40,000

Sec. 17. **PRIMARY ROAD FUND APPROPRIATION.** There is appropriated from the primary road fund to the department of personnel 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 purposes designated:

For salaries, support, maintenance, and miscellaneous purposes to provide personnel services for the state department of transportation:

..... \$ 423,539

Sec. 18. **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, 2002, and ending June 30, 2003, 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:

..... \$ 69,237

¹ The phrase "full-time equivalent positions" probably intended

² 2002 Iowa Acts, Regular Session, chapter 1135 herein

³ 2002 Iowa Acts, Regular Session, chapter 1135 herein

Sec. 19. STATE WORKERS' COMPENSATION CLAIMS. 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. 20. 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, 2002, and ending June 30, 2003, 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 subsection 1:

.....	FTEs	443.01
1. COMPLIANCE — INTERNAL RESOURCES MANAGEMENT — STATE FINANCIAL MANAGEMENT — STATEWIDE PROPERTY TAX ADMINISTRATION		
For salaries, support, maintenance, and miscellaneous purposes:		
.....	\$	24,781,012

Of the funds appropriated pursuant to this subsection, \$400,000 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.

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.

2. COLLECTION COSTS AND FEES		
For payment of collection costs and fees pursuant to section 422.26:		
.....	\$	28,166

Sec. 21. LOTTERY.

1. APPROPRIATION. There is appropriated from the lottery fund to the department of revenue and finance 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 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:		
.....	\$	8,688,714
.....	FTEs	117.00

The lottery shall deduct \$500,000 from its calculated retained earnings before making lottery proceeds transfers to the general fund of the state during the fiscal year beginning July 1, 2002.

*2. ACCOUNTABLE GOVERNMENT REPORT. *The lottery shall submit a report to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation on or before January 13, 2003, which encompasses the reporting requirements provided in Code chapter 8E, including development of an agency strategic plan, performance measures, performance targets based on performance data, performance data, and data sources used to evaluate the agency performance, and explanations of the plan's provisions. In submitting the report required by this subsection, the lottery is not required to disclose any proprietary or otherwise confidential information which is considered a confidential record pursuant to section 22.7.**

3. VIDEO LOTTERY. It is the intent of the general assembly that the lottery should investigate whether the deployment of vending machines with video screens would enhance the lottery's ability to perform its statutory duties and if, in the business judgment of the lottery commissioner and the lottery board, it would do so, that the lottery is authorized to establish a plan

* Item veto; see message at end of the Act

to implement the deployment of pull-tab vending machines with video monitors consistent with the requirements of this subsection. At a minimum, the deployment plan shall include provisions for restricting access to these machines by minors, including but not limited to requirements relating to the location of these machines. Prior to implementing the deployment plan as described in this subsection, the lottery shall notify the legislative oversight committee and shall submit a report to the committee describing the deployment plan, including measures the lottery will implement to restrict access to the machines by minors.

Sec. 22. 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, 2002, and ending June 30, 2003, 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:
 \$ 1,084,112

Sec. 23. 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, 2002, and ending June 30, 2003, 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:

..... \$ 680,716
 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.

2. BUSINESS SERVICES

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

..... \$ 1,433,235
 FTEs 32.00

Sec. 24. 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, 2002, and ending June 30, 2003, 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. 25. 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, 2002, and ending June 30, 2003, 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:

..... \$ 785,550
 FTEs 25.80

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

The treasurer of state is authorized not more than the following additional full-time equivalent position for the purposes provided for in 2002 Iowa Acts, House File 681,⁴ relating to the pledging of collateral in relation to the deposit of uninsured public funds:

..... FTEs 1.00

⁴ 2002 Iowa Acts, Regular Session, chapter 1096 herein

The treasurer of state may expend additional funds for the purposes of 2002 Iowa Acts, House File 681,⁵ if those additional expenditures are actual expenses as provided in 2002 Iowa Acts, House File 681,⁶ and the expenses are fully reimbursable.

Sec. 26. 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, 2002, and ending June 30, 2003, 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:

.....	\$	2,982,748
.....	FTEs	125.00

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 department of information technology shall identify all positions throughout state government that have job responsibilities that are duplicative of the same or similar job functions that are performed by similar positions in the department of information technology. The positions throughout state government that are duplicative of positions in the department of information technology shall be identified by department, position title, and position pay grade. The department of information technology shall also determine if the department can perform the functions of the duplicated position. The department shall submit a report, with findings, conclusions, and supporting data, to the oversight committee of the general assembly by September 1, 2002.

3. The information technology department shall submit a report to the general assembly by January 13, 2003, providing information concerning the funding of the operation of the department, to include information concerning the receipt and use of fees and other revenues by the department, the method of determining fees to be charged, and information comparing fees charged by the department with comparable private sector rates.

4. It is the intent of the general assembly that all agencies comply with the requirements established in section 304.13A relating to utilization of the electronic repository developed for the purpose of providing public access to agency publications. To ensure compliance with the requirements, the department of management, the information technology department, and the state librarian shall coordinate the development of a process to maximize and monitor the extent to which the number of printed copies of agency publications is reduced, and to realize monetary savings through the reduction. The process shall include a policy for distribution of written copies of publications to members of the general assembly on a request-only basis and weekly notification of a new publication posting on the repository by the state librarian to the secretary of state, secretary of the senate, and chief clerk of the house of representatives, who in turn shall notify members of the general assembly of publication availability. The process shall also include the electronic submission of a report by November 1, annually, to the legislative fiscal bureau and legislative fiscal committee detailing the number of written copies of agency publications produced in the preceding two fiscal years, and indicating the extent to which a reduction may be observed.

Sec. 27. FUNDING FOR IOWACCESS.

1. Notwithstanding section 321A.3, subsection 1, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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 IowaAccess revolving fund created in section 14B.206 and administered by the information technology department for the purposes of developing, imple-

⁵ 2002 Iowa Acts, Regular Session, chapter 1096 herein
⁶ 2002 Iowa Acts, Regular Session, chapter 1096 herein
* Item veto; see message at end of the Act

menting, 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 IowaAccess shall be deposited in the IowaAccess revolving fund created in section 14B.206 and shall be used only for the support of IowaAccess projects.

Sec. 28. DUPLICATION AND REORGANIZATION REVIEWS. In implementing the requirements of this division I of this Act, involving the department of general services, department of management, department of personnel, and information technology department identifying duplicative positions or studying the reorganization of state government, those departments shall consult with the departments that may be affected, consider previously conducted studies or reviews, and identify the projected impacts of recommended changes upon the general fund of the state, road use tax fund, and any other affected funding source.

Sec. 29. Section 7D.33, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The method of promoting the suggestion program in the broadest possible manner to state employees.

Sec. 30. Section 7D.33, subsection 3, paragraph a, Code 2001, is amended to read as follows:

a. When a suggestion is implemented and results in a direct cost reduction within state government, the suggester shall be awarded ten percent of the first year's net savings, not exceeding ~~*two thousand five hundred~~ twenty-five thousand* dollars ~~or, and~~ a certificate. A cash award shall not be awarded for a suggestion which saves less than one hundred dollars during the first year of implementation. The department head shall approve all awards and determine the amount to be awarded. Appeals of award amounts shall be submitted to the director of the department of management whose decision is final.

Sec. 31. Section 476.53, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The utilities board and the consumer advocate may employ additional temporary staff, or may contract for professional services with persons who are not state employees, as the board and the consumer advocate deem necessary to perform required functions as provided in this section, including but not limited to, review of power purchase contracts, review of emission plans and budgets, and review of ratemaking principles proposed for construction or lease of a new generating facility. Beginning July 1, 2002, there is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board and the consumer advocate to hire additional staff and contract for services under this section. The costs of the additional staff and services shall be assessed to the utilities pursuant to the procedure in section 476.10 and section 475A.6.

Sec. 32. Section 505.7, subsection 4, Code 2001, is amended by striking the subsection and inserting in lieu thereof the following:

4. Except as otherwise provided in subsection 6, the insurance division may expend additional funds if those additional expenditures are actual expenses which exceed the funds budgeted for statutory duties of the division and directly result from the statutory duties of the division. The amounts necessary to fund the excess division expenses shall be collected from additional fees and other moneys collected by the division. The division shall notify in writing the legislative fiscal bureau and the department of management when hiring additional personnel. The written notification shall include documentation that any additional expenditure related to such hiring will be totally reimbursed to the general fund, and shall also include the division's justification for hiring such personnel. The division must obtain the approval of the department of management only if the number of additional personnel to be hired exceeds the number of full-time equivalent positions authorized by the general assembly.

* Item veto; see message at end of the Act

Sec. 33. Section 546.10, subsection 3, Code Supplement 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding subsection 5, eighty-five percent of the funds received annually resulting from an increase in licensing fees implemented on or after April 1, 2002, by a licensing board or commission listed in subsection 1, is appropriated to the professional licensing and regulation division to be allocated to the board or commission for the fiscal year beginning July 1, 2002, and succeeding fiscal years, for purposes related to the duties of the board or commission, 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 available to the professional licensing division on a monthly basis during each fiscal year.

Sec. 34. 2001 Iowa Acts, First Extraordinary Session, chapter 5, section 1, is repealed.

Sec. 35. EFFECTIVE DATE. This division of this Act takes effect July 1, 2002.

DIVISION II
 AGRICULTURE AND NATURAL RESOURCES
 DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Sec. 36. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the department, including its divisions, for administration, regulations, and programs, for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	\$	16,469,640
	FTEs	440.13

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
 SPECIAL APPROPRIATIONS

Sec. 37. RIVER AUTHORITIES. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the department for membership in the state interagency Missouri river authority, created in 2002 Iowa Acts, Senate File 2051,⁷ in the Missouri river basin association:

	\$	9,780
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Sec. 38. FEED GRAIN PROJECT. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of administering a pilot process verification program for feed grains. The program shall be administered in conjunction with the Iowa corn growers association:

	\$	19,560
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Sec. 39. HORSE AND DOG RACING. There is appropriated from the moneys available under section 99D.13 to the administrative division of the department of agriculture and land stewardship 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 purposes designated:

⁷ 2002 Iowa Acts, Regular Session, chapter 1009 herein

For salaries, support, maintenance, and miscellaneous purposes for the administration of section 99D.22:

..... \$ 293,441

Sec. 40. REGULATORY DIVISION DAIRY PRODUCTS CONTROL BUREAU. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the operations of the dairy products control bureau within the department's regulatory division, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 664,646

DEPARTMENT OF NATURAL RESOURCES
GENERAL APPROPRIATIONS

Sec. 41. GENERAL DEPARTMENT APPROPRIATION.

1. There is appropriated from the general fund of the state to the department of natural resources 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 purposes designated:

For purposes of supporting the department, including its divisions, for administration, regulations, and programs, for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 15,555,316
..... FTEs 1,075.12

2. Of the amount appropriated in subsection 1, the air quality bureau may expend up to \$5,000 for purposes of supporting public education programs for controlled burning of demolition sites and the proper disposal of waste materials from demolition sites.

3. Of the amount appropriated in subsection 1, \$5,949,760 shall be used by the parks and preserves division for salaries, support, maintenance, and miscellaneous purposes.

4. Of the amount appropriated in subsection 1, \$1,250,000 shall be used for salaries, support, maintenance, and miscellaneous purposes for activities regarding animal agriculture.

Sec. 42. 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 department of natural resources 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 purposes designated:

For use by the division of fish and wildlife for administrative support, and for salaries, support, maintenance, equipment, and miscellaneous purposes:

..... \$ 28,044,786

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.

DEPARTMENT OF NATURAL RESOURCES
RELATED TRANSFERS AND APPROPRIATIONS

Sec. 43. SNOWMOBILE FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 2002, 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, 2002, and ending June 30, 2003, 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

Sec. 44. VESSEL FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 2002, 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, 2002, and ending June 30, 2003, 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.

DEPARTMENT OF NATURAL RESOURCES
SPECIAL APPROPRIATIONS

Sec. 45. 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, 2002, and ending June 30, 2003, 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. 46. FLOODPLAIN PERMIT BACKLOG. Notwithstanding any contrary provision of state law, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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. 47. IMPLEMENTATION OF THE FEDERAL TOTAL MAXIMUM DAILY LOAD PROGRAM. Notwithstanding any contrary provision of state law, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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

Sec. 48. EFFECTIVE DATE. This division of this Act takes effect July 1, 2002.

DIVISION III
ECONOMIC DEVELOPMENT

Sec. 49. GOALS AND ACCOUNTABILITY.

1. The goals for the department of economic development shall be to expand and stimulate the state economy, increase the wealth of Iowans, and increase the population of the state.

2. To achieve the goals in subsection 1, the department of economic development shall do all of the following:

a. Concentrate its efforts on programs and activities that result in commercially viable products and services.

b. Adopt practices and services consistent with free market, private sector philosophies.

c. Ensure economic growth and development throughout the state.

*3. *The department of economic development shall demonstrate accountability by using performance measures appropriate to show the attainment of the goals in subsection 1 for the state and by measuring the effectiveness and results of the department's programs and activities. The performance measures and associated benchmarks shall be developed or identified in cooperation with the legislative fiscal bureau and approved by the joint appropriations subcommittee on economic development. The data demonstrating accountability collected by the department shall be made readily available and maintained in computer-readable format.**

Sec. 50. DEPARTMENT OF ECONOMIC DEVELOPMENT. There is appropriated from the general fund of the state to the department of economic development for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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, programs, for the transfer to the Iowa state commission grant program, and for not more than the following full-time equivalent positions:

.....	\$	1,509,134
.....	FTEs	28.75

b. The department shall work with businesses and communities to continually improve the economic development climate along with the economic well-being and quality of life for Iowans. The administrative services division shall coordinate with other state agencies ensuring that all state departments are attentive to the needs of an entrepreneurial culture.

2. BUSINESS DEVELOPMENT DIVISION

a. Business development operations

For business development operations and programs, international trade, export assistance, workforce recruitment, the partner state program, for transfer to the strategic investment fund, for transfer to the value-added agricultural products and processes financial assistance fund, salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	10,311,286
.....	FTEs	60.00

b. The department shall establish a strong and aggressive marketing image to showcase Iowa's workforce, existing industry, and potential. A priority shall be placed on recruiting new businesses, business expansion, and retaining existing Iowa businesses. Emphasis shall also be placed on entrepreneurial development through helping to secure capital for entrepreneurs, and developing networks and a business climate conducive to entrepreneurs and small business.

c. 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.

* Item veto; see message at end of the Act

3. COMMUNITY AND RURAL DEVELOPMENT DIVISION

a. Community development programs

For salaries, support, maintenance, miscellaneous purposes, community economic development programs, tourism operations, community assistance, the film office, the mainstreet and rural mainstreet programs, the school-to-career program, the community development block grant, and housing and shelter-related programs and for not more than the following full-time equivalent positions:

.....	\$	4,591,404
.....	FTEs	65.00

b. The department shall encourage development of communities and quality of life to foster economic growth. The department shall prepare communities for future growth and development through development, expansion, and modernization of infrastructure.

c. The department shall develop 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.

d. Notwithstanding section 8.33, moneys that remain unexpended at the end of the fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.

4. For allocating moneys for the world food prize:

.....	\$	285,000
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Sec. 51. VISION IOWA PROGRAM — FTE AUTHORIZATION. For purposes of administrative duties associated with the vision Iowa program, the department of economic development is authorized an additional 3.00 full-time equivalent positions above those otherwise authorized in this division of this Act.

Sec. 52. RURAL COMMUNITY 2000 PROGRAM. There is appropriated from loan repayments on loans under the former rural community 2000 program, sections 15.281 through 15.288, Code 2001, to the department of economic development for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For providing financial assistance to Iowa’s councils of governments that provide technical and planning assistance to local governments:

.....	\$	150,000
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2. For 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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Sec. 53. 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 of economic development for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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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Sec. 54. 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, 2002, and ending June 30, 2003, 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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Moneys appropriated pursuant to this section shall not be appropriated from moneys in the community attraction and tourism fund which are moneys originating from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund.

Sec. 55. COMMUNITY DEVELOPMENT LOAN FUND. Notwithstanding section 15E.120, subsections 5 and 6, there is appropriated from the Iowa community development loan fund all the moneys available during the fiscal year beginning July 1, 2002, and ending June 30, 2003, to the department of economic development for the community development program to be used by the department for the purposes of the program.

Sec. 56. 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, 2002, and ending June 30, 2003, 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. 57. WORKFORCE DEVELOPMENT ADMINISTRATION. 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, 2002, and ending June 30, 2003, may be used for the administration of workforce development activities including salaries, support, maintenance, and miscellaneous purposes and for not more than 4.00 full-time equivalent positions.

Sec. 58. JOB TRAINING FUND. Notwithstanding section 15.251, all remaining moneys in the job training fund on July 1, 2002, and any moneys appropriated or credited to the fund during the fiscal year beginning July 1, 2002, shall be transferred to the workforce development fund established pursuant to section 15.343.

Sec. 59. IOWA STATE UNIVERSITY.

1. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for small business development centers, the science and technology research park, the institute for physical research, and for not more than the following full-time equivalent positions:

.....	\$	2,384,063
.....	FTEs	56.53

2. Iowa state university of science and technology shall do all of the following:

a. Direct expenditures for research toward projects that will provide economic stimulus for Iowa.

b. Emphasize that a business and an individual that creates a business and receives benefits from a program funded, in part, through moneys appropriated in this section have a commercially viable product or service.

c. Provide emphasis to providing services to Iowa-based companies.

3. 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.

* Item veto; see message at end of the Act

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 amount 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. 60. UNIVERSITY OF IOWA.

1. There is appropriated from the general fund of the state to the state university of Iowa 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 university of Iowa research park and for the advanced drug development program at the Oakdale research park, including salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	245,463
.....	FTEs	6.00

2. The university of Iowa shall do all of the following:

a. Direct expenditures for research toward projects that will provide economic stimulus for Iowa.

b. Emphasize that a business and an individual that creates a business and receives benefits from a program funded, in part, through moneys appropriated in this section have a commercially viable product or service.

c. Provide emphasis to providing services to Iowa-based companies.

3. 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, 2003.

4. 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. 61. UNIVERSITY OF NORTHERN IOWA.

1. There is appropriated from the general fund of the state to the university of northern Iowa 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 metal casting institute, and for the institute of decision making, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	352,889
.....	FTEs	11.15

2. The university of northern Iowa shall do all of the following:

a. Direct expenditures for research toward projects that will provide economic stimulus for Iowa.

b. Emphasize that a business and an individual that creates a business and receives benefits from a program funded, in part, through moneys appropriated in this section have a commercially viable product or service.

c. Provide emphasis to providing services to Iowa-based companies.

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

Sec. 62. DEPARTMENT OF WORKFORCE DEVELOPMENT.

1. There is appropriated from the general fund of the state, to the department of workforce

* Item veto; see message at end of the Act

development for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, for the division of labor services, the division of workers' compensation, the workforce development state and regional boards, the new employment opportunity fund, salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,878,316
.....	FTEs	113.30

2. 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.

3. 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.

4. 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. 63. 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, 2002, and ending June 30, 2003, any moneys remaining in the administrative contribution surcharge fund on June 30, 2002, and the entire amount collected during the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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. 64. 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, 2002, and ending June 30, 2003, 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 pilot immigration service centers:

.....	\$	160,000
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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.

*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 position:

.....	\$	67,078
.....	FTEs	1.00

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

* Item veto; see message at end of the Act

*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, 2003.**

Sec. 65. PUBLIC EMPLOYMENT RELATIONS BOARD. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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:

.....	\$	815,857
.....	FTEs	12.00

Sec. 66. Section 15E.112, subsection 5, Code 2001, is amended by striking the subsection.

Sec. 67. Section 159A.7, subsection 6, Code 2001, is amended by striking the subsection.

Sec. 68. 2000 Iowa Acts, chapter 1230, section 11, unnumbered paragraph 3, as amended by 2001 Iowa Acts, chapter 188, section 19, 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 years beginning July 1, 2001, and July 1, 2002.

Sec. 69. VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES FINANCIAL ASSISTANCE FUND MONEYS. The office of renewable fuels and coproducts may apply to the department of economic development for moneys in value-added agricultural products and processes financial assistance fund for deposit in the renewable fuels and coproducts fund created in section 159A.7.

Sec. 70. IOWA FINANCE AUTHORITY AUDIT. The auditor of state is requested to review the audit of the Iowa finance authority performed by the auditor hired by the authority. The auditor of state is also requested to conduct a performance audit of the authority to determine the effectiveness of the authority and the programs of the authority.

Sec. 71. APPLICATION FOR DEPARTMENT OF ECONOMIC DEVELOPMENT MONEYS. For the fiscal year beginning July 1, 2002, any entity that was specifically identified in 2001 Iowa Acts, chapter 188, to receive funding from the department of economic development, excluding any entity identified to receive a direct appropriation beginning July 1, 2002, may apply to the department for assistance through the appropriate program. The department shall provide application criteria necessary to implement this section.

Sec. 72. EXPENDITURE AND ALLOCATION REPORTS. The department of economic development, the department of workforce development, and the regents institutions receiving an appropriation pursuant to this division of this Act shall file a written report on a quarterly basis with the chairpersons and ranking members of the joint appropriations subcommittee on economic development and the legislative fiscal bureau regarding all expenditures of moneys appropriated pursuant to this division of this Act during the quarter, allocations of moneys appropriated pursuant to this division of this Act during the quarter, and full-time equivalent positions allocated during the quarter.

* Item veto; see message at end of the Act

Sec. 73. EMPLOYER'S CONTRIBUTION AND PAYROLL REPORT FORM. Notwithstanding Iowa administrative code 871, chapter 22, an entity filing the employer's contribution and payroll report form and any other unemployment insurance forms on behalf of multiple accounts shall be allowed to submit one check for these accounts. A listing of applicable account numbers shall be submitted with the payment.

Sec. 74. SHELTER ASSISTANCE FUND. In providing moneys from the shelter assistance fund to homeless shelter programs in the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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. 75. ISCC REPORT. By December 31, 2002, the department of economic development shall submit a written report to the chairpersons and the ranking members of the joint appropriations subcommittee on economic development and the legislative fiscal bureau. The report shall identify any moneys received from the ISCC liquidation corporation.

Sec. 76. FEDERAL GRANTS. All federal grants to and the federal receipts of agencies appropriated funds under this division of 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. 77. UNEMPLOYMENT COMPENSATION PROGRAM. 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 beginning after December 31, 2002.

Sec. 78. PAYROLL EXPENDITURE REFUNDS. In lieu of the appropriation made in section 15.365, subsection 3, there is appropriated for the fiscal year beginning July 1, 2002, and ending June 30, 2003, \$28,498, 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. 79. EFFECTIVE DATE. This division of this Act takes effect July 1, 2002.

DIVISION IV
EDUCATION

Sec. 80. 2002 Iowa Acts, Senate File 2326,⁸ section 76, subsection 3, paragraph a, is amended by striking the paragraph.

Sec. 81. 2002 Iowa Acts, Senate File 2326,⁹ section 76, subsection 5, is amended by striking the subsection.

Sec. 82. 2002 Iowa Acts, Senate File 2326,¹⁰ section 78, subsection 1, unnumbered paragraph 1, is amended to read as follows:

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

.....	\$	231,707
.....		<u>215,488</u>
.....	FTEs	4.30

* Item veto; see message at end of the Act
⁸ 2002 Iowa Acts, Regular Session, chapter 1171 herein
⁹ 2002 Iowa Acts, Regular Session, chapter 1171 herein
¹⁰ 2002 Iowa Acts, Regular Session, chapter 1171 herein

Sec. 83. 2002 Iowa Acts, Senate File 2326,¹¹ section 78, subsections 2, 3, and 5, are amended to read as follows:

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 position:

.....	\$	598,450
		<u>300,000</u>
.....	FTEs	0.70

3. HISTORICAL DIVISION

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

.....	\$	3,025,891
		<u>2,814,079</u>
.....	FTEs	66.70

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:

.....	\$	1,254,679
		<u>1,166,851</u>
.....	FTEs	11.00

Sec. 84. 2002 Iowa Acts, Senate File 2326,¹² section 79, subsections 1 through 3, are amended to read as follows:

1. GENERAL ADMINISTRATION

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

.....	\$	5,165,531
		<u>5,051,889</u>
.....	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:

.....	\$	500,111
		<u>489,109</u>
.....	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:

.....	\$	43,695
		<u>42,734</u>
.....	FTEs	9.00

Sec. 85. 2002 Iowa Acts, Senate File 2326,¹³ section 79, subsection 4, paragraph a, unnumbered paragraph 1, is amended to read as follows:

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

.....	\$	4,386,854
		<u>4,290,343</u>
.....	FTEs	290.50

¹¹ 2002 Iowa Acts, Regular Session, chapter 1171 herein
¹² 2002 Iowa Acts, Regular Session, chapter 1171 herein
¹³ 2002 Iowa Acts, Regular Session, chapter 1171 herein

Sec. 86. 2002 Iowa Acts, Senate File 2326,¹⁴ section 79, subsection 4, paragraph b, unnumbered paragraph 1, is amended to read as follows:

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 position:

.....	\$	57,158
		<u>55,901</u>
.....	FTEs	1.00

Sec. 87. 2002 Iowa Acts, Senate File 2326,¹⁵ section 79, subsection 5, paragraph a, is amended to read as follows:

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

.....	\$	1,500,000
		<u>1,250,000</u>
.....	FTEs	20.00

Sec. 88. 2002 Iowa Acts, Senate File 2326,¹⁶ section 79, subsection 5, paragraph b, unnumbered paragraph 1, is amended to read as follows:

For the enrich Iowa program:

.....	\$	1,781,168
		<u>1,741,982</u>

Sec. 89. 2002 Iowa Acts, Senate File 2326,¹⁷ section 79, subsections 6 and 7, are amended to read as follows:

6. LIBRARY SERVICE AREA SYSTEM

For state aid:

.....	\$	1,443,613
		<u>1,411,854</u>

7. PUBLIC BROADCASTING DIVISION

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

.....	\$	6,856,407
		<u>6,356,407</u>
.....	FTEs	89.00

Sec. 90. 2002 Iowa Acts, Senate File 2326,¹⁸ section 79, subsection 11, unnumbered paragraph 1, is amended to read as follows:

For deposit in the school ready children grants account of the Iowa empowerment fund created in section 28.9:

.....	\$	14,033,448
		<u>13,724,712</u>

Sec. 91. 2002 Iowa Acts, Senate File 2326,¹⁹ section 79, subsections 13 through 16, are amended by striking the subsections.

Sec. 92. Section 256.9, subsection 48, Code Supplement 2001, is amended to read as follows:

48. Develop and administer, with the cooperation of the commission of veterans affairs, a program which shall be known as "operation recognition". The purpose of the program is to award high school diplomas to ~~World War II~~ veterans of World War I, World War II, and the Korean and Vietnam conflicts who left high school prior to graduation to enter United States

¹⁴ 2002 Iowa Acts, Regular Session, chapter 1171 herein

¹⁵ 2002 Iowa Acts, Regular Session, chapter 1171 herein

¹⁶ 2002 Iowa Acts, Regular Session, chapter 1171 herein

¹⁷ 2002 Iowa Acts, Regular Session, chapter 1171 herein

¹⁸ 2002 Iowa Acts, Regular Session, chapter 1171 herein

¹⁹ 2002 Iowa Acts, Regular Session, chapter 1171 herein

military service. The department and the commission shall jointly develop an application procedure, distribute applications, and publicize the program to school districts, accredited non-public schools, county commissions of veteran affairs, veterans organizations, and state, regional, and local media. All honorably discharged ~~World War II~~ veterans who are residents or former residents of the state, who served at any time between April 6, 1917, and November 11, 1918, at any time between September 16, 1940, and December 31, 1946, at any time between June 25, 1950, and January 31, 1955, or at any time between February 28, 1961, and May 5, 1975, all dates inclusive; and who did not return to school and complete their education after the war or conflict shall be eligible to receive a diploma. Diplomas may be issued posthumously. Upon approval of an application, the department shall issue an honorary high school diploma for an eligible veteran. The diploma shall indicate the veteran's school of attendance. The department and the commission shall work together to provide school districts, schools, communities, and county commissions of veteran affairs with information about hosting a diploma ceremony on or around Veterans Day. The diploma shall be mailed to the veteran or, if the veteran is deceased, to the veteran's family.

Sec. 93. Section 261.25, subsection 1, Code 2001, as amended by 2002 Iowa Acts, Senate File 2326,²⁰ section 85, is 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-seven~~ forty-six million one hundred ~~fifty-five~~ seventeen thousand ~~three~~ nine hundred ~~eighty-two~~ sixty-four dollars for tuition grants.

Sec. 94. Chapter 260A, Code 2001 and Code Supplement 2001, is repealed.

Sec. 95. EFFECTIVE DATE.

1. Except as otherwise provided in subsection 2, this division of this Act takes effect July 1, 2002.
2. The section of this division of this Act amending section 256.9, being deemed of immediate importance, takes effect upon enactment.

DIVISION V
HEALTH AND HUMAN RIGHTS

Sec. 96. 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, 2002, and ending June 30, 2003, 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:

.....	\$	1,529,780
.....	FTEs	106.50

Sec. 97. 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, 2002, and ending June 30, 2003, 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:

.....	\$	908,253
.....	FTEs	35.75

If the anticipated amount of federal funding from the federal equal employment opportunity commission and the federal department of housing and urban development exceeds \$1,144,875 during the fiscal year beginning July 1, 2002, 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.

²⁰ 2002 Iowa Acts, Regular Session, chapter 1171 herein

Sec. 98. 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, 2002, and ending June 30, 2003, 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 60 years of age and older with case management for the frail elderly, Alzheimer's support, the retired and senior volunteer program, resident advocate committee coordination, employment, and other services which may include, but are not limited to, adult day services, respite care, chore services, telephone reassurance, information and assistance, and home repair services, 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:

.....	\$	3,928,156
.....	FTEs	28.00

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 and 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. 99. GOVERNOR'S OFFICE OF DRUG CONTROL POLICY.

1. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes including statewide coordination of the drug abuse resistance education (D.A.R.E.) programs or similar programs, and for not more than the following full-time equivalent positions:

.....	\$	261,504
.....	FTEs	11.00

2. The governor's office of drug control policy, in consultation with the Iowa department of public health, and after discussion and collaboration with all interested agencies, shall coordinate substance abuse treatment and prevention efforts in order to avoid duplication of services.

Sec. 100. 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,

2002, and ending June 30, 2003, 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:

.....	\$	1,182,980
.....	FTEs	15.51

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.

c. The department and any grantee or subgrantee of the department shall not discriminate against a nongovernmental organization that provides substance abuse treatment and prevention services or applies for funding to provide those services on the basis that the organization has a religious character. The department shall report to the governor and the general assembly on or before February 1, 2003, regarding the number of religious or other nongovernmental organizations that applied for funds in the preceding fiscal year, the amounts awarded to those organizations, and the basis for any refusal by the department or grantee or subgrantee of the department to award funds to any of those organizations that applied.

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:

.....	\$	497,647
.....	FTEs	24.27

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:

.....	\$	1,092,689
.....	FTEs	47.07

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:

.....	\$	1,171,453
.....	FTEs	10.30

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:

.....	\$	1,225,717
.....	FTEs	26.12

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:

.....	\$	9,455,265
.....	FTEs	4.05

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:

.....	\$	158,258
.....	FTEs	9.20

8. INFECTIOUS DISEASES

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

.....	\$	1,095,419
.....	FTEs	36.40

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:

.....	\$	1,467,105
.....	FTEs	8.55

Of the funds appropriated in this subsection, \$660,000 shall be credited to the emergency medical services fund created in section 135.25.

10. PUBLIC PROTECTION

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

.....	\$	6,269,235
.....	FTEs	129.77

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 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 for 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, 2002, 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, 2002, 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.

c. The department may retain and expend not more than \$279,056 for lease and maintenance expenses from fees collected pursuant to section 147.80 by the board of dental examiners, the board of pharmacy examiners, the board of medical examiners, and the board of nursing in the fiscal year beginning July 1, 2002, and ending June 30, 2003. 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, 2002, and ending June 30, 2003. 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 funds appropriated in 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 \$148,060 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 board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing 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 board of medical examiners, the board of pharmacy examiners, the board of dental examiners, and the board of nursing shall retain their individual executive officers, but are strongly encouraged to share administrative, clerical, and investigative staffs to the greatest extent possible.

i. The licensing boards funded under this section shall submit a report by February 1, 2003, to the chairpersons and ranking members of the joint appropriations subcommittee on health and human rights providing management to staff ratios of all funded positions as of January 13, 2003.

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:

.....	\$	1,101,021
.....	FTEs	53.76

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.

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.

d. It is the intent of the general assembly that the Iowa department of public health and the department of human services shall discuss the feasibility of combining adolescent pregnancy prevention programs under one department and shall submit a written report regarding such discussions to the chairpersons and ranking members of the joint appropriations subcommittee on health and human rights by November 1, 2002.

Sec. 101. 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, 2002, and ending June 30, 2003, 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:

.....	\$	255,624
.....	FTEs	7.00

2. DEAF SERVICES DIVISION

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

.....	\$	313,828
.....	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:

.....	\$	173,136
.....	FTEs	3.50

4. LATINO AFFAIRS DIVISION

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

.....	\$	155,124
.....	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:

.....	\$	333,415
.....	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:

.....	\$	124,373
.....	FTEs	2.00

The appropriation in this subsection is contingent upon the appointment of an administrator of the division on the status of African-Americans and the appointment of all nine members to the commission on the status of African-Americans.

7. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

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

.....	\$	368,604
.....	FTEs	9.15

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.

8. 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. 102. 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, 2002, and ending June 30, 2003, 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:

.....	\$	192,792
.....	FTEs	3.00

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:

.....	\$	14,445,694
.....	FTEs	843.00

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. 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.

c. 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.

d. The Iowa veterans home shall operate with a net state general fund appropriation. The amount appropriated in this subsection is the net amount of state moneys projected to be needed for the Iowa veterans home. The purposes of operating with a net state general fund appropriation are to encourage the Iowa veterans home to operate with increased self-sufficiency, to improve quality and efficiency, and to support collaborative efforts among all funders of services available from the Iowa veterans home. Moneys appropriated in this subsection 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 Iowa veterans home may temporarily draw more than the amount appropriated, provided the amount appropriated is not exceeded at the close of the fiscal year. **Beginning September 1, 2002, the Iowa veterans home shall submit a report every other month to the chairpersons and ranking members of the joint appropriations subcommittee on health and human rights and to the legislative fiscal committee providing a financial analysis of revenues and expenses.**

e. Revenues attributable to the Iowa veterans home for the fiscal year beginning July 1, 2002, shall be deposited into the Iowa veterans home account and shall be treated as repayment receipts, including but not limited to all of the following:

- (1) Federal veterans administration payments.
- (2) 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 Iowa veterans home is authorized to provide.

f. For the purposes of allocating the salary adjustment fund moneys appropriated in another Act, the Iowa veterans home shall be considered to be funded entirely with state moneys.

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

* Item veto; see message at end of the Act

Sec. 103. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

a. Addictive disorders

To be utilized for the benefit of persons with addictions:

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

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

c. Gambling treatment program

The funds remaining in the gambling treatment fund after the appropriation in paragraph “a” is 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, 2002, and ending June 30, 2003, 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. 104. 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, and 2001 Iowa Acts, chapter 182, section 13, shall be extended until June 30, 2003, 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, 2003.

Sec. 105. SPAN OF CONTROL REPORTING. 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 shall submit a report by February 1, 2003, to the chairpersons and ranking members of the joint appropriations subcommittee on health and human rights providing all management to staff ratios of all funded positions as of January 13, 2003.

Sec. 106. PROGRAM PERFORMANCE BUDGETS. It is the intent of the general assembly that 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 develop program performance budget measures to include, but not be limited to, the development and tracking of demand, workload, productivity, and effectiveness performance indicators for each program. The program performance measures shall include minority programs and grants received by minority programs. The program performance measures shall also include gender-based programs. The purpose of the program performance budget initiative is to emphasize the programs the agencies provide based upon citizen needs, the agencies’ responses to those needs, and the resources the agencies require to respond to those needs. The agencies shall submit a report on the status of achieving the program performance measures to the chairpersons and ranking members of the joint appropriations subcommittee on health and human rights by December 16, 2002.

Sec. 107. SCOPE OF PRACTICE REVIEW PROJECT. The scope of practice review committee pilot project as enacted in 1997 Iowa Acts, chapter 203, section 6, shall be extended until

* Item veto; see message at end of the Act

July 1, 2003. The Iowa department of public health shall submit an annual progress report to the governor and the general assembly by January 15 and shall include any recommendations for legislative action as a result of review committee activities. The department may contract with a school or college of public health in Iowa to assist in implementing the project.

Sec. 108. Section 232.190, Code 2001, is repealed.

Sec. 109. EFFECTIVE DATE. This division of this Act takes effect July 1, 2002.

DIVISION VI
HUMAN SERVICES

Sec. 110. 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, 2002, and ending June 30, 2003, 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 and successor legislation, which are federally appropriated for the federal fiscal years beginning October 1, 2001, and ending September 30, 2002, and beginning October 1, 2002, and ending September 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

If the federal government appropriation received for Iowa's portion of the federal temporary assistance for needy families block grant for the federal fiscal year beginning October 1, 2002, and ending September 30, 2003, is less than \$131,524,959, it is the intent of the general assembly to act expeditiously during the 2003 legislative session to adjust appropriations or take other actions to address the reduced amount. 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:

1. To be credited to the family investment program account and used for assistance under the family investment program under chapter 239B:

..... \$ 46,508,982

2. To be credited to the family investment program account and used for the job opportunities and basic skills (JOBS) program, and implementing family investment agreements, in accordance with chapter 239B:

..... \$ 13,412,794

3. For field operations:

..... \$ 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

a. Of the funds appropriated in this subsection, \$200,000 shall be used for provision of educational opportunities to registered child care home providers in order to improve services and programs offered by this category of providers and to increase the number of providers. The department may contract with institutions of higher education or child care resource and referral centers to provide the educational opportunities. Allowable administrative costs under the contracts shall not exceed 5 percent. The application for a grant shall not exceed two pages in length.

b. Of the funds appropriated in this subsection, the maximum amount allowed under Pub. L. No. 104-193 shall be transferred to the child care and development block grant appropriation. Funds appropriated in this subsection that remain following the transfer shall be used

* Item veto; see message at end of the Act

to provide direct spending for the child care needs of working parents in families eligible for the family investment program.

- 7. For emergency assistance:
 - \$ 1,000,000
- 8. For mental health and developmental disabilities community services:
 - \$ 4,349,266
- 9. For child and family services:
 - \$ 22,896,571
- 10. For child abuse prevention grants:
 - \$ 250,000
- 11. For pregnancy prevention grants on the condition that family planning services are funded:
 - \$ 2,514,413
 - a. Pregnancy prevention grants shall be awarded to programs in existence on or before July 1, 2002, 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, 2002, 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.
 - b. In addition to the full-time equivalent positions funded in this division of this Act, the department may use a portion of the funds appropriated in this subsection to employ an employee in up to 1.00 full-time equivalent position for the administration of programs specified in this subsection.
- 12. For technology needs and other resources necessary to meet federal welfare reform reporting, tracking, and case management requirements:
 - \$ 565,088
- 13. For volunteers:
 - \$ 42,663
- 14. For individual development accounts under chapter 541A:
 - \$ 150,000
- 15. 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
- 16. To be credited to the state child care assistance appropriation made in this section to be used for funding of community-based early childhood programs targeted to children from birth through five years of age, developed by community empowerment areas as provided in this subsection:
 - \$ 6,350,000
 - a. The department may transfer federal temporary assistance for needy families block grant funding appropriated and allocated in this subsection to the child care and development block grant appropriation in accordance with federal law as necessary to comply with the provisions of this subsection. The funding shall then be provided to community empowerment areas for the fiscal year beginning July 1, 2002, in accordance with all of the following:
 - (1) The area must be approved as a designated community empowerment area by the Iowa empowerment board.
 - (2) 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 2002-2003 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.

(3) 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.

(4) The availability of funding provided under this subsection is subject to changes in federal requirements and amendments to Iowa law.

b. The moneys distributed in accordance with this subsection 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. In addition to the full-time equivalent positions funded in this division of this Act, 1.00 full-time equivalent position is authorized and the department may use funding appropriated in this subsection for provision of technical assistance and other support to communities developing and implementing strategies with moneys distributed in accordance with this subsection.

c. Moneys that are subject to this subsection 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.

Of the amounts appropriated in this section, \$11,612,112 for the fiscal year beginning July 1, 2002, 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.

Federal funding received that is designated for activities supporting marriage or two-parent families is appropriated to the Iowa marriage initiative grant fund created in section 234.45.

Sec. 111. FAMILY INVESTMENT PROGRAM ACCOUNT.

1. Moneys credited to the family investment program (FIP) account for the fiscal year beginning July 1, 2002, and ending June 30, 2003, shall be used in accordance with the following requirements:

a. The department shall provide assistance in accordance with chapter 239B.
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. (1) The department shall continue expansion of the electronic benefit transfer program as necessary to comply with federal food stamp benefit requirements. The target date for statewide implementation of the program is October 1, 2003.

(2) Notwithstanding section 234.12A, subsection 1, for the fiscal year beginning July 1, 2002, a retailer providing electronic equipment shall not be reimbursed a transaction fee.

2. 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 6.00

3. 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, 2002, 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.

4. Moneys appropriated in this division of this Act and credited to the family investment program account for the fiscal year beginning July 1, 2002, and ending June 30, 2003, are allocated as follows:

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

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

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

(2) 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) The department may continue to implement the family development and self-sufficiency grant program statewide during FY 2002-2003.

b. For the diversion subaccount of the family investment program account:

..... \$ 1,814,000

(1) 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. The requirements established and position authorized under 2001 Iowa Acts, chapter 191, section 3, subsection 5, paragraph "c", subparagraph (1), shall remain applicable to the initiative for fiscal year 2002-2003.

(2) Of the moneys allocated to the diversion subaccount, not more than \$250,000 shall be used to develop or continue community-level parental obligation pilot projects. The requirements established under 2001 Iowa Acts, chapter 191, section 3, subsection 5, paragraph "c", subparagraph (3), shall remain applicable to the parental obligation pilot projects for fiscal year 2002-2003.

c. For the food stamp employment and training program:

..... \$ 63,000

5. 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.

6. 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.**

7. 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.

Sec. 112. 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

* Item veto; see message at end of the Act

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

..... \$ 35,288,782

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.

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, \$9,274,143 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. 113. EMERGENCY ASSISTANCE.

1. The emergency assistance funds received in accordance with this section and federal moneys appropriated for this purpose in this division of this Act shall be available beginning October 1, 2002, 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 12-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. a. For the fiscal year beginning July 1, 2002, 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 Act and are appropriated to be used as additional funds for the emergency assistance program.

b. 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 beginning July 1, 2002, shall not revert but shall remain available for expenditure when the program resumes operation on October 1 in the succeeding fiscal year.

Sec. 114. 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, 2002, and ending June 30, 2003, 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:

.....	\$	5,895,189
.....	FTEs	406.40

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. 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.

6. The department shall expend up to \$51,000, including federal financial participation, for the fiscal year beginning July 1, 2002, 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.

7. 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. 115. 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, 2002, and ending June 30, 2003, 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, 2002, 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:

.....	\$	380,907,073
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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. 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, 2002, 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 waivers, the total number of openings for persons with physical disabilities served at any one time shall be limited to the number approved for a 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 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.

9. 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.

10. If the federal centers for Medicare and Medicaid services 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.

11. The department shall aggressively pursue options for providing medical assistance or other assistance to individuals with special needs who become ineligible to continue receiving services under the early and periodic, screening, diagnosis, and treatment program under the medical assistance program due to becoming 21 years of age, who have been approved for additional assistance through the department's exception to policy provisions, but who have health care needs in excess of the funding available through the exception to policy process.

12. Of the funds appropriated in this section, \$150,000 shall be used as state matching funds, in combination with federal and private funds for participation 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 administered by the Iowa telecare consortium, which is a collaboration of public, private, academic, and governmental participants coordinated by Des Moines university — osteopathic medical center. 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. Des Moines university — osteopathic medical center shall submit a report to the general assembly by January 15, 2003, regarding the status of the pilot program. The program guidelines shall be consistent with those specified under 2001 Iowa Acts, chapter 191, section 7, subsection 15.

13. The drug utilization review board shall submit copies of the board's annual review, including facts and findings, of the drugs on the department's prior authorization list to the department and to the members of the joint appropriations subcommittee on human services.

* Item veto; see message at end of the Act

14. The department shall expend the anticipated savings for operation of the state maximum allowable cost program for pharmaceuticals as additional funding for the medical assistance program.

Sec. 116. 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, 2002, and ending June 30, 2003, 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:

.....	\$	580,044
.....	FTEs	22.00

Sec. 117. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

.....	\$	8,729,141
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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. In any managed care contract for mental health or substance abuse services entered into or extended by the department on or after July 1, 2002, 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, 2002, to provide for such coverage.

Sec. 118. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For state supplementary assistance and the medical assistance home and community-based services waiver rent subsidy program:

.....	\$	19,500,000
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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, 2002, the department projects that state supplementary assistance expenditures for a calendar year will not meet the federal pass-along requirement specified in Title XVI of the federal Social Security Act, section 1618, as codified in 42 U.S.C. § 1382g, the department may take actions including but not limited to increasing the personal needs allowance for residential care facility residents and making programmatic adjustments or upward adjustments of the residential care facility or in-home health-related care reimbursement rates prescribed in this division of this Act to ensure that federal requirements are met. The department may adopt emergency rules to implement the provisions of this subsection.

3. The department may use up to \$25,000 of the funds appropriated in this section for a rent subsidy program for adult persons. The requirements under 2001 Iowa Acts, chapter 191, section 11, subsection 3, shall apply to the program and the participants in the program.

Sec. 119. 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, 2002, and ending

* Item veto; see message at end of the Act

June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child care programs:

..... \$ 4,939,635

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 2002-2003 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, \$525,524 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.

5. If the federal government appropriates additional funding under the federal child care and development block grant than was anticipated would be received for the state fiscal year beginning July 1, 2002, in addition to the notification requirements for expenditure requirements for additional federal funds under 2002 Iowa Acts, House File 2582, the department shall consult with the chairpersons and ranking members of the joint appropriations subcommittee on human services at least thirty days in advance of committing to expenditure of the additional funding.

Sec. 120. 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, 2002, and ending June 30, 2003, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

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

..... \$ 6,273,663

..... FTEs 134.54

It is the intent of the general assembly that beginning in the fiscal year commencing on July 1, 2003, the Iowa juvenile home at Toledo will serve only females.

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

..... \$ 10,434,719

..... FTEs 218.53

3. During the fiscal year beginning July 1, 2002, 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, 2002.

* Item veto; see message at end of the Act

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.

Sec. 121. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

..... \$ 98,144,163

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 division of 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 \$28,665,950 is allocated as the state-wide expenditure target under section 232.143 for group foster care maintenance and services.

b. If at any time after September 30, 2002, annualization of a service area's current expenditures indicates a service area is at risk of exceeding its group foster care expenditure target under section 232.143 by more than five percent, the department and juvenile court services shall examine all group foster care placements in that service area in order to identify those which might be appropriate for termination. In addition, any aftercare services believed to be needed for the children whose placements may be terminated shall be identified. The department and juvenile court services shall initiate action to set dispositional review hearings for the placements identified. In such a dispositional review hearing, the juvenile court shall determine whether needed aftercare services are available and whether termination of the placement is in the best interest of the child and the community.

c. (1) Of the funds appropriated in this section, not more than \$6,585,993 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 division of this Act for medical assistance.

d. Of the funds allocated in this subsection, \$1,370,127 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, 2002, 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 service area shall establish the plan in a manner so as to ensure the moneys allocated to the service area 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, 2002, state funding for shelter care paid pursuant to section 234.35, subsection 1, paragraph "h", shall be limited to \$7,120,382.

7. 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.

8. Federal funds received by the state during the fiscal year beginning July 1, 2002, 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.

9. The department and juvenile court services shall continue to develop criteria for the department service area 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.

10. Of the moneys appropriated in this section, not more than \$415,135 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.

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

12. Of the moneys appropriated in this section, up to \$2,924,183 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, 2002.

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

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

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

13. a. Of the funding appropriated in this section, \$2,927,602 is allocated to provide school-based supervision of children adjudicated under chapter 232, including not more than \$1,463,801 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. A portion of the cost of each school-based liaison officer shall be paid by the school district or other funding source as approved by the chief juvenile court officer.

14. The department shall maximize the capacity to draw federal funding under Title IV-E of the federal Social Security Act.

15. 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

* Item veto; see message at end of the Act

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.

16. 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.

17. It is the intent of the general assembly that the department continue its practice of providing strong support for Iowa's nationally recognized initiative of decategorization of child welfare funding.

*18. *It is the intent of the general assembly that administration of the foster care and adoption programs be privatized.**

Sec. 122. JUVENILE DETENTION HOME FUND. Moneys deposited in the juvenile detention home fund created in section 232.142 during the fiscal year beginning July 1, 2002, and ending June 30, 2003, are appropriated to the department of human services for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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, 2001. 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, 2001. Notwithstanding section 232.142, subsection 3, the financial aid payable by the state under that provision for the fiscal year beginning July 1, 2002, shall be limited to the amount appropriated for the purposes of this subsection.

2. For renewal of a grant to a county with a population between 168,000 and 175,000 for implementation of the county's runaway treatment plan under section 232.195:

..... \$ 80,000

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. 123. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the family support subsidy program:

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

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

2. Notwithstanding section 225C.38, subsection 1, the monthly family support payment amount for the fiscal year beginning July 1, 2002, shall remain the same as the payment amount in effect on June 30, 2002.

Sec. 124. 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, 2002, and ending June 30, 2003, 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 oppor-

* Item veto; see message at end of the Act

tunities in accordance with the consent decree of Conner v. Branstad, No. 4-86-CV-30871 (S.D. Iowa, July 14, 1994):

..... \$ 42,623

Sec. 125. 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, 2002, and ending June 30, 2003, 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:

..... \$ 12,747,990
 FTEs 227.65

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:

..... \$ 7,244,131
 FTEs 126.15

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

..... \$ 16,552,128
 FTEs 333.80

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 division of this Act for medical assistance, revenues attributable to the PMIC beds described in this subsection for the fiscal year beginning July 1, 2002, and ending June 30, 2003, 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.

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:

..... \$ 5,343,829
 FTEs 100.07

a. Funding is provided in this subsection for the state 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, 2002, and ending June 30, 2003, 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.

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

5. Within the funds appropriated in this section, the department may transfer funds as necessary to best fulfill the needs of the institutes 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.

Sec. 126. 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, 2002, and ending June 30, 2003, 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:

..... \$ 2,170,150

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

..... \$ 1,463,073

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, 2002, 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 existing capacity limitations are reached in operating units, a waiting list is in effect for a service or a special need for which a payment source or other funding is available for the service or to address the special need, and facilities for the service or to address the special need can be provided within the available payment source or other funding, the superintendent of a state resource center may authorize opening not more than two units or other facilities and to begin implementing the service or addressing the special need during fiscal year 2002-2003.

Sec. 127. 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, 2002, and ending June 30, 2003, 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:

..... \$ 47,827

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. 128. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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

..... \$ 11,414,619

The general assembly encourages the department to continue discussions with the Iowa state association of counties and administrators of county central point of coordination offices regarding proposals for moving state cases to county budgets.

Sec. 129. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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

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

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

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

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

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. 130. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For continuation of a pilot project for the personal assistance services program in accordance with this section:

..... \$ 157,921

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. In accordance with 2001 Iowa Acts, chapter 191, section 25, subsection 2, new applicants

shall not be accepted into the pilot project. An individual receiving services under the pilot project as of June 30, 2002, shall continue receiving services until the individual voluntarily leaves the project or until another program with similar services exists.

Sec. 131. SEXUALLY VIOLENT PREDATORS. 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 costs associated with the commitment and treatment of sexually violent predators in the unit located at the state mental health institute at Cherokee, including costs of legal services and other associated costs, including salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	\$	3,459,855
.....	FTEs	44.00

In implementing the relocation of the unit for commitment of sexually violent predators from Oakdale to the state mental health institute at Cherokee in the fiscal year beginning July 1, 2002, it is the intent of the general assembly that the department of human services complete the renovation of space at the institute and the relocation of the unit as expeditiously as possible. If requested by the department of human services as necessary to complete the renovation of space and relocation as expeditiously as possible, notwithstanding any provision of law or rule to the contrary, the department of general services shall grant a waiver for purposes of the renovation project from those requirements in administrative rule and policy that would otherwise govern the length of time the renovation project components are noticed.

Sec. 132. 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, 2002, and ending June 30, 2003, 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:

.....	\$	51,204,264
.....	FTEs	1,920.00

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

2. In implementing the transition from a regional system to the service area system established pursuant to 2001 Iowa Acts, Second Extraordinary Session, chapter 4, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the department shall utilize the service areas and service area administrators in lieu of regions and regional administrators, notwithstanding the references to department regions or regional administrators in sections 232.2, 232.52, 232.68, 232.72, 232.102, 232.117, 232.127, 232.143, 232.188, and 234.35, or other provision in law. **The department shall submit proposed legislation under section 2.16 for consideration by the Eightieth General Assembly, 2003 Session, to correct the references in the necessary Code sections.**

Sec. 133. ADDITIONAL FEDERAL FUNDING — FISCAL YEAR 2002-2003.

1. The provisions of this section are applicable for the fiscal year beginning July 1, 2002.

2. 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.

3. Additional federal financial participation secured for the fiscal year beginning July 1,

* Item veto; see message at end of the Act

2002, and ending June 30, 2003, 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 received from medical assistance claims for child protection staff for 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 a portion of the additional federal financial participation 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.

4. The department may adopt emergency rules to implement the provisions of this section.

Sec. 134. ADDITIONAL FEDERAL FINANCIAL PARTICIPATION — FISCAL 2001-2002 AND FISCAL 2002-2003. The first \$10 million of federal financial participation received under the section of this division of this Act providing for the department of human services' efforts to secure additional federal funding for FY 2002-2003 through Titles IV-E and XIX of the federal Social Security Act or from other efforts by the department of human services to draw additional federal financial participation associated with funds appropriated for child and family services in fiscal years 2001-2002 and 2002-2003 shall be used in those two fiscal years to offset reductions in federal financial participation for child welfare services due to changes in federal regulations or interpretations of federal regulations, changes in federal cost allocations or federal match provisions, or federal sanctions. The department may adopt emergency rules to implement the provisions of this section.

Sec. 135. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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

.....	\$	11,587,936
.....	FTEs	356.00

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. *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.*

* Item veto; see message at end of the Act

3. *If the department proposes an amendment to a state plan for a program that is subject to federal approval and the amendment would have an effect on state appropriations, unless the amendment is adopted as a rule that has been reviewed and approved by the administrative rules review committee, the amendment shall not be submitted to the federal government for consideration unless the fiscal committee of the legislative council has adopted a motion recommending implementation of the amendment.**

Sec. 136. VOLUNTEERS. 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 development and coordination of volunteer services:
 \$ 109,568

Sec. 137. 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, 2002, nursing facilities shall be reimbursed as provided in 2002 Iowa Acts, House File 2613.²¹ 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, 2002, 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 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.

**(3) The department of human services shall require recipients of medical assistance to pay the following copayment on each covered drug prescription, including each refill as follows:*

- (a) A copayment of \$1 for each covered generic drug prescription.*
- (b) A copayment of \$1 for each covered brand-name drug prescription for which the cost to the state is less than \$25.*
- (c) A copayment of \$2 for each covered brand-name drug prescription for which the cost to the state is between \$25 and \$50.*
- (d) A copayment of \$3 for each covered brand-name drug prescription for which the cost to the state is over \$50.**

c. For the fiscal year beginning July 1, 2002, reimbursement rates for inpatient and outpatient hospital services shall remain at the rates in effect on June 30, 2002. The department shall continue the outpatient hospital reimbursement system based upon ambulatory patient groups implemented pursuant to 1994 Iowa Acts, chapter 1186, section 25, subsection 1, paragraph "F". In addition, the department shall continue the revised medical assistance payment policy implemented pursuant to that paragraph to provide reimbursement for costs of screening and treatment provided in the hospital emergency room if made pursuant to the prospective payment methodology developed by the department for the payment of outpatient services provided under the medical assistance program. Any rebasing of hospital inpatient²² or outpatient rates shall not increase total payments for inpatient and outpatient services.

d. For the fiscal year beginning July 1, 2002, 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, 2002, reimbursement rates for home health agencies shall remain at the rates in effect on June 30, 2002.

f. For the fiscal year beginning July 1, 2002, federally qualified health centers shall receive

* Item veto; see message at end of the Act

²¹ 2002 Iowa Acts, Regular Session, chapter 1172 herein

²² According to enrolled Act

cost-based reimbursement for 100 percent of the reasonable costs for the provision of services to recipients of medical assistance.

g. Beginning July 1, 2002, the reimbursement rates for dental services shall remain at the rates in effect on June 30, 2002.

h. Beginning July 1, 2002, the reimbursement rates for community mental health centers shall remain at the rates in effect on June 30, 2002.

i. For the fiscal year beginning July 1, 2002, the maximum reimbursement rate for psychiatric medical institutions for children shall remain at the rate in effect on June 30, 2002, based on per day rates for actual costs.

j. For the fiscal year beginning July 1, 2002, unless otherwise specified in this division of this Act, all noninstitutional medical assistance provider reimbursement rates shall remain at the rates in effect on June 30, 2002, 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 remain at the rate in effect on June 30, 2002.

l. In addition to other dental services provided to adults under the medical assistance program in accordance with 2002 Iowa Acts, House File 2245,²³ section 7, subsection 2, for the fiscal year beginning July 1, 2002, the following services shall be provided:

(1) Root canal treatments on permanent anterior teeth.

(2) General anesthesia and intravenous sedation if necessitated by the physical or mental disability of the patient.

2. For the fiscal year beginning July 1, 2002, the maximum cost reimbursement rate for residential care facilities reimbursed by the department shall not be less than \$25.92 per day for the time period of July 1, 2002, through December 31, 2002, and shall not be less than \$26.20 per day for the time period of January 1, 2003, through June 30, 2003. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall not be less than \$18.52 per day for the time period of July 1, 2002, through December 31, 2002, and shall not be less than \$18.72 per day for the time period of January 1, 2003, through June 30, 2003.

3. For the fiscal year beginning July 1, 2002, the maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall not be less than \$498.29 per month for the time period of July 1, 2002, through December 31, 2002, and shall not be less than \$503.67 per month for the time period of January 1, 2003, through June 30, 2003.

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, 2001.

5. Notwithstanding section 234.38, in the fiscal year beginning July 1, 2002, 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, 2002, the maximum reimbursement rates for social service providers shall remain at the rates in effect on June 30, 2002. However, the rates may be adjusted under any of the following circumstances:

a. If a new service was added after June 30, 2002, the initial reimbursement rate for the service shall be based upon actual and allowable costs.

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

7. The group foster care reimbursement rates paid for placement of children out-of-state shall be calculated according to the same rate-setting principles as those used for in-state

²³ 2002 Iowa Acts, Regular Session, chapter 1165 herein

providers unless the director or the director's designee determines that appropriate care cannot be provided within the state. The payment of the daily rate shall be based on the number of days in the calendar month in which service is provided.

8. For the fiscal year beginning July 1, 2002, the reimbursement rates for rehabilitative treatment and support services providers shall remain at the rates in effect on June 30, 2002.

9. For the fiscal year beginning July 1, 2002, 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, 2002, 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, 2002, 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 non-registered provider to become registered.

12. For the fiscal year beginning July 1, 2002, reimbursements for providers reimbursed by the department of human services may be modified if appropriated funding is allocated for that purpose from the senior living trust fund created in section 249H.4, or as specified in appropriations from the healthy Iowans tobacco trust created in section 12.65.

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

Sec. 138. HEALTH CARE FACILITY — EXCEPTION. Notwithstanding any provision of chapter 135, division VI, to the contrary and notwithstanding current applicable life safety code and physical plant requirements, a health care facility located in Dows, Iowa, that was operating prior to May 1, 2002, and that terminated operation prior to May 31, 2002, that previously completed the certificate of need process and that was previously licensed by the state, shall not be subject to a subsequent certificate of need process and shall not be subject to current life safety code requirements or current physical plant requirements in order to be issued a conditional license, if the successor health care facility becomes operational on or before July 1, 2004.

Sec. 139. TRANSFER AUTHORITY. Subject to the provisions of section 8.39, for the fiscal year beginning July 1, 2002, 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 division of 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 combination with such moneys, the department of human services may transfer within or between any of the appropriations made in this division of 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.

* Item veto; see message at end of the Act

Sec. 140. FRAUD AND RECOUPMENT ACTIVITIES. During the fiscal year beginning July 1, 2002, 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 division of 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. 141. TARGETED CASE MANAGEMENT SERVICES FOR CHILDREN — FY 2001-2002. It is the intent of the general assembly that the department evaluate the documentation provisions implemented in fiscal year 2001-2002 for medical assistance claiming of targeted case management services for children who are at risk of maltreatment or who are in need of protective services. The purpose of the evaluation is for the department to ease the administrative burden on department staff by limiting the documentation requirement to those children known to be eligible or implementing other appropriate measures.

**Sec. 142. NEW SECTION. 249A.20A NURSING FACILITIES — DUAL CERTIFICATION REQUIRED.*

*Beginning October 1, 2002, all licensed nursing facilities shall be certified under both the federal Medicare program and the medical assistance program as a condition for participation in the medical assistance program. The department shall, in consultation with nursing facility provider organizations, adopt rules to establish criteria for individual exceptions to the dual certification requirement under this section.**

Sec. 143. Section 252B.4, subsection 1, Code 2001, is amended to read as follows:

1. The director shall require an application fee of ~~five~~ twenty-five dollars.

Sec. 144. 2001 Iowa Acts, chapter 176, 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, 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
	<u>14,181,000</u>

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.

Sec. 145. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES (MH/MR/DD) ALLOWED GROWTH FACTOR ADJUSTMENT AND ALLOCATIONS — DISTRIBUTION FOR FY 2002-2003.

1. For the fiscal year beginning July 1, 2002, the moneys appropriated in 2001 Acts, chapter 176, section 1, as amended by this division of this Act, for distribution to counties of the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment, shall be distributed 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, as follows:

* Item veto; see message at end of the Act

a. The first \$500,000 shall be credited to the risk pool created in the property tax relief fund and shall be distributed pursuant to section 426B.5, subsection 2.

b. The remaining \$13,681,000 shall be distributed as provided in this section.

2. The following formula amounts shall be utilized only to calculate preliminary distribution amounts for fiscal year 2002-2003 under this section by applying the indicated formula provisions to the formula amounts and producing a preliminary distribution total for each county:

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

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

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

..... \$ 14,492,712

c. For calculation of a distribution amount for counties from the mental health and developmental disabilities (MH/DD) community services fund in accordance with the formula provided in this division of this Act:

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

3. Notwithstanding any contrary provisions of sections 225C.7, 331.438, subsection 2, 331.439, subsection 3, and 426B.5, the moneys allocated for distribution in subsection 1, paragraph "b", and in any other Act of the Seventy-ninth General Assembly, 2002 Session, for distribution to counties in the fiscal year beginning July 1, 2002, 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 and as calculated under subsection 2 to produce preliminary distribution amounts for counties shall be subject to withholding as provided in this section.

4. After applying the applicable statutory distribution formulas to the amounts indicated in subsection 2 for purposes of formula calculations to produce preliminary distribution totals, the department of human services shall apply a withholding factor to adjust an eligible individual county's preliminary distribution total. An ending balance percentage for each county shall be determined by expressing the county's ending balance on a modified accrual basis under generally accepted accounting principles for the fiscal year beginning July 1, 2001, in the county's mental health, mental retardation, and developmental disabilities services fund created under section 331.424A, as a percentage of the county's gross expenditures from that fund for that fiscal year. The withholding factor for a county shall be the following applicable percent:

a. For an ending balance percentage of less than 10 percent, a withholding factor of 0 percent.

b. For an ending balance percentage of 10 through 24 percent, a withholding factor of 48.1 percent.

c. For an ending balance percentage of 25 through 34 percent, a withholding factor of 60 percent.

d. For an ending balance percentage of 35 through 44 percent, a withholding factor of 85 percent.

e. For an ending balance percentage of 45 percent or more, a withholding factor of 100 percent.

5. The total withholding amounts applied pursuant to subsection 4 shall be equal to a withholding target amount of \$12,811,712 and the appropriation made in this division of this Act for the MH/DD community services fund and the appropriation made in 2001 Iowa Acts, chapter 176, section 1, as amended by this division of this Act shall be reduced by the amount necessary to attain the withholding target amount. If the department of human services determines that the amount to be withheld in accordance with subsection 4 is not equal to the target withholding amount, the department shall adjust the withholding factors listed in subsection 4 as necessary to achieve the withholding target amount. However, in making such adjustments

to the withholding factors, the department shall strive to minimize changes to the withholding factors for those ending balance percentage ranges that are lower than others and shall not adjust the zero withholding factor specified in subsection 4, paragraph "a".

6. In order to be eligible for a funding distribution under this section, a county must levy at least 70 percent of the maximum allowed for the county's services fund under section 331.424A for taxes due and payable in the fiscal year beginning July 1, 2002, and comply with the December 1, 2002, filing deadline for the county annual financial report in accordance with section 331.403. 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.

7. The department of human services shall authorize the issuance of warrants payable to the county treasurer for the distribution amounts due the counties eligible under this section and notwithstanding prior practice for the MH/DD community services fund, the warrants shall be issued in January 2003.

Sec. 146. EMERGENCY RULES. If specifically authorized by a provision of this division 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 or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this section, notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph "b". Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

Sec. 147. REPORTS.

1. Any reports or information required to be compiled and submitted under this division of this Act shall be submitted to the chairpersons and ranking members of the joint appropriations subcommittee on 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.

2. In order to reduce mailing and paper processing costs, the department shall provide, to the extent feasible, reports, notices, minutes, and other documents by electronic means to those persons who have the capacity to access the documents in that manner.

Sec. 148. LAW INAPPLICABLE FOR FISCAL YEAR 2002-2003.

1. The following provisions in Code or rule shall be suspended for the period beginning July 1, 2002, and ending June 30, 2003:

a. The requirements of section 239B.2A, relating to school attendance by children participating in the family investment program.

b. For a case permanency plan, as defined in section 232.2, the requirement for a six-month case permanency plan review for an intact family. In addition, the department of human services may implement a shortened case permanency plan format tailored to meet compliance issues.

c. The requirements of section 225C.42, relating to an annual evaluation of the family support subsidy program.

2. The department may adopt emergency rules to implement the provisions of this section.

Sec. 149. MEDICAL ASSISTANCE PROGRAM — REPAYMENT OF SENIOR LIVING TRUST FUND FOR FY 2001-2002. If moneys appropriated for the medical assistance program for the fiscal year beginning July 1, 2001, and ending June 30, 2002, from the general fund of

the state, the tobacco settlement trust fund, the healthy Iowans tobacco trust fund, the senior living trust fund, and the hospital trust fund are in excess of actual expenditures for the medical assistance program and remain available at the close of the fiscal year, the excess moneys in an amount not to exceed the amount appropriated from the senior living trust fund for the medical assistance program for the fiscal year beginning July 1, 2001, which have not otherwise been repaid, shall be transferred to the senior living trust fund created in section 249H.4.

Sec. 150. MEDICAL ASSISTANCE PROGRAM — REPAYMENT OF SENIOR LIVING TRUST FUND FOR FY 2002-2003. If moneys appropriated for the medical assistance program for the fiscal year beginning July 1, 2002, and ending June 30, 2003, from the general fund of the state, the tobacco settlement trust fund, the healthy Iowans tobacco trust fund, the senior living trust fund, and the hospital trust fund are in excess of actual expenditures for the medical assistance program and remain available at the close of the fiscal year, the excess moneys, not to exceed the amount appropriated from the senior living trust fund for the medical assistance program for the fiscal years beginning July 1, 2001, and July 1, 2002, which have not otherwise been repaid, shall be transferred to the senior living trust fund created in section 249H.4.

Sec. 151. EFFECTIVE DATES.

1. Except as otherwise provided in subsection 2, this division of this Act takes effect July 1, 2002.

2. The following provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

a. The provision under the appropriation for child and family services, relating to requirements of section 232.143 for representatives of the department of human services and juvenile court services to establish a plan for continuing group foster care expenditures for the 2002-2003 fiscal year.

b. The provision under the appropriation for child and family services, relating to the state court administrator determining allocation of court-ordered services funding by June 15, 2002.

c. The provision relating to the evaluation of documentation for targeted case management services for children in fiscal year 2001-2002.

d. The provision relating to obtaining additional federal financial participation for fiscal year 2001-2002 and fiscal year 2002-2003.

e. The provision relating to repayment of the senior living trust fund for fiscal year 2001-2002.

f. The provision enacting new section 249A.20A relating to dual certification of nursing facilities.

DIVISION VII
JUSTICE SYSTEM

Sec. 152. 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, 2002, and ending June 30, 2003, 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 prosecuting attorney training program, victim assistance grants, office of drug control policy (ODCP) prosecuting attorney program, legal services for persons in poverty grants as provided in section 13.34, odometer fraud enforcement, and for not more than the following full-time equivalent positions:

.....	\$	7,340,260
.....	FTEs	210.48

2. 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, 2002, and

* Item veto; see message at end of the Act

ending June 30, 2003, 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.

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, 2002, and ending June 30, 2003, an amount not exceeding \$1,125,000 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 \$1,200,000, the excess funds shall not be appropriated to the department of justice pursuant to this subsection.

4. a. The funds used for victim assistance grants 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. The balance of the victim compensation fund established in section 915.94 may be used to provide salary and support of not more than 22.0 FTEs and to provide maintenance for the victim compensation functions of the department of justice.

5. 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.

6. a. The department of justice, in submitting budget estimates for the fiscal year commencing July 1, 2003, 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, 2001, and actual and expected reimbursements for the fiscal year commencing July 1, 2002.

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, 2003.

7. As a condition for accepting a grant for legal services for persons in poverty funded pursuant to section 13.34, an organization receiving a grant shall submit a report to the general assembly by January 1, 2003, 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. 153. 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, 2002, and ending June 30, 2003, 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. 154. 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, 2002, and ending June 30, 2003, 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:

.....	\$	2,443,903
.....	FTEs	33.00

Sec. 155. 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, 2002, and ending June 30, 2003, 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:

.....	\$	32,168,605
.....	FTEs	543.69

It is the intent of the general assembly to operate a special needs unit at the Fort Madison correctional facility at a capacity of 200 beds when funding constraints are eliminated.

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:

.....	\$	23,786,629
.....	FTEs	379.75

Moneys are provided within this appropriation for one full-time substance abuse counselor 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:

.....	\$	21,497,363
.....	FTEs	328.50

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:

.....	\$	22,538,275
.....	FTEs	371.25

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:

.....	\$	21,161,133
.....	FTEs	330.56

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:

.....	\$	7,268,049
.....	FTEs	110.00

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:

.....	\$	18,326,306
.....	FTEs	291.76

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:

.....	\$	12,024,416
.....	FTEs	215.50

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:

.....	\$	24,379,674
.....	FTEs	395.00

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:

.....	\$	674,954
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k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

.....	\$	241,293
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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. 156. 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, 2002, and ending June 30, 2003, 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:

.....	\$	2,666,224
.....	FTEs	42.18

Notwithstanding section 904.108, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the correctional training center need not be maintained at the Mount Pleasant correctional facility.

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, 2002, for the privatization of services performed by the department using state employees as of July 1, 2002, 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 employment 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 educational programs for inmates at state penal institutions:

.....	\$	100,000
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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.

The director of the department of corrections may transfer moneys from Iowa prison industries for use in educational programs for inmates.

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.

3. For the development of the Iowa corrections offender network (ICON) data system:
..... \$ 427,700

4. 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, 2003, 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.

5. 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, 2002, 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, 2002, 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.

6. The department of corrections shall submit a report to the general assembly by January 1, 2003, concerning moneys recouped from inmate earnings for the reimbursement of operational expenses of the applicable facility during the fiscal year beginning July 1, 2001, 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. 157. 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, 2002, and ending June 30, 2003, 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:

..... \$ 8,953,795

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:

..... \$ 6,992,061

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:

..... \$ 4,073,638

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:

..... \$ 3,854,236

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:

..... \$ 11,702,787

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:

..... \$ 8,965,564

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:

..... \$ 5,125,593

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:

..... \$ 5,097,521

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. 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, 2002.

7. 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.

8. 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 members of the joint appropriations subcommittee on the justice system, and to the legislative fiscal bureau by January 15, 2003. The report shall include a description of the program at each intermediate sanction level or sublevel of the corrections continuum within each district plan, and the number of offenders placed at each intermediate sanction level or sublevel in each district for the previous fiscal year, and the current fiscal year as of March 1. The report shall also include the personal characteristics of each offender, including the offender's race, gender, and age, and the offender's placement on the corrections continuum. The number of FTEs working in positions related to the corrections continuum shall also be included in the report.

9. 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. 158. 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, 2003.

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, 2003, 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, 2003. 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, 2002. 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. 159. 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 departments,

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, 2003, 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, 2001, and ending June 30, 2002.

Sec. 160. 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, 2002, and ending June 30, 2003, the following amount, or so much thereof as is necessary, for the purposes designated:

..... \$ 33,908,325

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:

..... \$ 15,770,739
 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:

..... \$ 18,137,586

Sec. 161. 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, 2002, and ending June 30, 2003, 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:

..... \$ 1,000,000
 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. 162. 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, 2002, and ending June 30, 2003, 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:

..... \$ 986,636
 FTEs 16.00

Sec. 163. 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, 2002, and ending June 30, 2003, 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:

.....	\$	5,115,428
.....	FTEs	285.89

If there is a surplus in the general fund of the state for the fiscal year ending June 30, 2003, 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:

.....	\$	1,077,354
.....	FTEs	25.25

Sec. 164. 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, 2002, and ending June 30, 2003, 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:

.....	\$	1,027,503
.....	FTEs	105.00

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". Such rates shall be established in a manner to minimize any subsidy provided through state general fund appropriations.

Sec. 165. 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, 2002, and ending June 30, 2003, 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:

.....	\$	2,379,176
.....	FTEs	38.50

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:

.....	\$	12,050,565
.....	FTEs	231.50

*Riverboat enforcement costs shall be billed in accordance with section 99F.10, subsection 4, and section 99F.10A. The costs shall be not more than the department's estimated expendi-

* Item veto; see message at end of the Act

tures, including salary adjustment, for riverboat enforcement for the fiscal year. The costs billed to the riverboats shall not be more than \$1,280,000 in excess of the amount billed to the riverboats in the fiscal year beginning July 1, 2001. Racetrack enforcement costs shall be billed in accordance with section 99D.14, subsection 7, and section 99D.14A. The costs shall be not more than the department's estimated expenditures, including salary adjustment, for race-track enforcement for the fiscal year. The costs billed to the racetracks shall not be more than \$420,000 in excess of the amount billed to the racetracks in the fiscal year beginning July 1, 2001.*

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, 2002, and one special agent for each racing facility which becomes operational during the fiscal year which begins July 1, 2002. 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:

.....	\$	3,392,889
.....	FTEs	58.00

b. For the division of narcotics enforcement for undercover purchases:

.....	\$	123,343
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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:

.....	\$	1,777,630
.....	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:

.....	\$	572,150
.....	FTEs	12.00

5. a. 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:

.....	\$	37,019,624
.....	FTEs	545.00

b. District 16, 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:

.....	\$	1,240,381
.....	FTEs	26.00

6. For deposit in the public safety law enforcement sick leave benefits fund established under section 80.42, for all departmental employees eligible to receive benefits for accrued sick leave under the collective bargaining agreement:

.....	\$	272,421
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7. An employee of the department of public safety who retires after July 1, 2002, but prior

* Item veto; see message at end of the Act

to June 30, 2003, 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.

8. For costs associated with the training and equipment needs of volunteer fire fighters and for not more than the following full-time equivalent position:

.....	\$	544,826
.....	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.

Sec. 166. POSTING OF REPORTS IN ELECTRONIC FORMAT — LEGISLATIVE FISCAL BUREAU. All reports or copies of reports required to be provided to the legislative fiscal bureau in this division for the fiscal year beginning July 1, 2002, shall be provided in an electronic format. The legislative fiscal bureau shall post the reports on its internet site and shall notify by electronic means all the members of the joint appropriations subcommittee on the justice system when a report is posted. Upon request, copies of the reports may be mailed to members of the joint appropriations subcommittee on the justice system.

Sec. 167. NEW SECTION. 99D.14A PAYMENT OF THE DIVISION OF CRIMINAL INVESTIGATION COSTS.

A licensee shall pay a fee in an amount representing twenty percent of the salary costs of the division of criminal investigation of the department of public safety plus any amount over thirty thousand dollars in direct and indirect support costs, in addition to that assessed under section 99D.14, subsection 7, for enforcement of this chapter. The fees assessed in this section shall be deposited in the general fund of the state.

Sec. 168. Section 99F.4A, subsection 8, Code 2001, is amended to read as follows:

8. A licensee shall pay a fee in an amount representing eighty one hundred percent of the salary and other related costs of the division of criminal investigation of the department of public safety for enforcement of this chapter.

Sec. 169. NEW SECTION. 99F.10A PAYMENT OF THE DIVISION OF CRIMINAL INVESTIGATION COSTS.

A licensee shall pay twenty percent of the division's salary costs for special agents and twenty percent of the division's salary costs for gaming enforcement plus any amount over one hundred twenty-five thousand dollars in direct and indirect support costs, in addition to that assessed under section 99F.10, subsection 4. The costs assessed in this section shall be deposited in the general fund of the state.

Sec. 170. 1998 Iowa Acts, chapter 1101, section 15, subsection 2, as amended by 1999 Iowa Acts, chapter 202, section 25, as amended by 2000 Iowa Acts, chapter 1229, section 25, and as amended by 2001 Iowa Acts, chapter 186, section 21, 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, ~~2002~~ 2003, 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, ~~2002~~ 2003, 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. 171. 2001 Iowa Acts, chapter 186, section 6, subsection 6, is amended by striking the subsection.

Sec. 172. EFFECTIVE DATES.

1. Except as otherwise provided by this section, this division of this Act takes effect July 1, 2002.
2. The section of this division of this Act striking 2001 Iowa Acts, chapter 186, section 6, subsection 6, being deemed of immediate importance, takes effect upon enactment.
3. The section of this Act amending 1998 Iowa Acts, chapter 1101, section 15, as amended, being deemed of immediate importance, takes effect upon enactment.

DIVISION VIII
JUDICIAL BRANCH

Sec. 173. JUDICIAL BRANCH. There is appropriated from the general fund of the state to the judicial branch 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 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, 2002, and maintenance, equipment, and miscellaneous purposes:

..... \$ 111,356,002

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 legislative fiscal bureau by January 15, 2003, 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 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, 2003, 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 5, during the fiscal year beginning July 1, 2001, and ending June 30, 2002, and the plans for expenditures from each fund during the fiscal year beginning July 1, 2002, and ending June 30, 2003. A copy of the report shall be provided to the legislative fiscal bureau.

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. 174. 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, 2002, and ending June 30, 2003, 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 9.9 percent of the basic salaries of the judges covered under chapter 602, article 9:

..... \$ 2,039,664

Sec. 175. POSTING OF REPORTS IN ELECTRONIC FORMAT — LEGISLATIVE FISCAL BUREAU. All reports or copies of reports required to be provided by the judicial branch for fiscal year 2002-2003 to the legislative fiscal bureau shall be provided in an electronic format. The legislative fiscal bureau shall post the reports on its internet site and shall notify by electronic means all the members of the joint appropriations subcommittee on the justice system when a report is posted. Upon request, copies of the reports may be mailed to members of the joint appropriations subcommittee on the justice system.

Sec. 176. CLERK OF COURT — STUDY COMMITTEE. The supreme court shall establish a study committee for the purpose of providing findings and recommendations to the court in order for the court to submit a report to the general assembly by December 15, 2002, regarding the efficient operation and management of the clerks of courts offices in every county of the state. The study committee shall include representatives of key court stakeholder groups including but not limited to, members of the general public, legislators, county and city officials, court employees, clerks of court, judges, and attorneys representing both urban and rural areas of the state. The court shall include interested associations and public agencies who request the opportunity to have input into the work of the study committee. The committee shall issue a report to the court which includes the committee’s findings and recommendations of

how to improve the operation and management of clerk of court offices under the present statutory framework of one clerk of court office per county. The supreme court shall submit its report to the general assembly after consideration of the study committee's findings and recommendations.

Sec. 177. APPOINTMENT OF CLERK OF COURT. Up until such time the supreme court submits its clerk of court study committee report to the general assembly and notwithstanding section 602.1215, the appointment of a clerk of the district court shall not occur unless the state court administrator approves the appointment.

Sec. 178. EFFECTIVE DATE. This division of this Act takes effect July 1, 2002.

DIVISION IX
STANDING APPROPRIATIONS — REDUCTIONS

Sec. 179. 2002 Iowa Acts, Senate File 2326,²⁴ section 168, is amended to read as follows:

SEC. 168. GENERAL ASSEMBLY. The appropriations made pursuant to section 2.12 for the expenses of the general assembly and legislative agencies for the fiscal year beginning July 1, 2002, and ending June 30, 2003, are reduced by the following amount:

.....	\$	744,947
		<u>1,828,845</u>

Sec. 180. 2002 Iowa Acts, Senate File 2326,²⁵ section 169, is amended to read as follows:

SEC. 169. 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, 2002, and ending June 30, 2003, is reduced by the following amount:

.....	\$	2,500,000
		<u>3,000,000</u>

STANDING APPROPRIATIONS — LIMITATIONS

Sec. 181. 2002 Iowa Acts, Senate File 2326,²⁶ section 175, subsections 6, 7, 9, 10, and 11, are amended to read as follows:

6. For the personal property tax replacement program under section 405A.8:

.....	\$	52,251,176
		<u>51,101,650</u>

7. For the payment of franchise tax allocations to cities and counties under section 405A.10:

.....	\$	8,168,952
		<u>7,989,235</u>

9. For payment of livestock production credit refunds under section 422.121:

.....	\$	1,856,580
		<u>1,815,735</u>

10. For reimbursement for the homestead property tax credit under section 425.1:

.....	\$	107,960,127
		<u>105,585,004</u>

11. For reimbursement for the agricultural land and family farm tax credits under section 426.1:

.....	\$	36,296,139
		<u>35,497,624</u>

Sec. 182. 2002 Iowa Acts, Senate File 2326,²⁷ section 176, is amended to read as follows:

SEC. 176. ELDERLY AND DISABLED CREDIT. Notwithstanding the standing appropria-

²⁴ 2002 Iowa Acts, Regular Session, chapter 1171 herein

²⁵ 2002 Iowa Acts, Regular Session, chapter 1171 herein

²⁶ 2002 Iowa Acts, Regular Session, chapter 1171 herein

²⁷ 2002 Iowa Acts, Regular Session, chapter 1171 herein

tion in section 425.39, the amount appropriated from the general fund of the state under section 425.39, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, for purposes of implementing the elderly and disabled credit and reimbursement portion of the extraordinary property tax and reimbursement division of chapter 425, shall not exceed \$16,152,246 15,796,897. The director shall pay, in full, all claims to be paid during the fiscal year beginning July 1, 2002, for reimbursement of rent constituting property taxes paid. If the amount of claims for credit for property taxes due to be paid during the fiscal year beginning July 1, 2002, exceeds the amount remaining after payment to renters, the director of revenue and finance shall prorate the payments to the counties for the property tax credit. In order for the director to carry out the requirements of this section, notwithstanding any provision to the contrary in sections 425.16 through 425.39, claims for reimbursement for rent constituting property taxes paid filed before May 1, 2003, shall be eligible to be paid in full during the fiscal year ending June 30, 2003, and those claims filed on or after May 1, 2003, shall be eligible to be paid during the fiscal year beginning July 1, 2003, and the director is not required to make payments to counties for the property tax credit before June 15, 2003.

Sec. 183. PUBLIC TRANSIT ASSISTANCE APPROPRIATION. 2002 Iowa Acts, Senate File 2326,²⁸ section 175, subsection 14, is amended by striking the subsection.

Sec. 184. 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, 2002, and ending June 30, 2003, is reduced by the following amount:

..... \$ 1,298,675

REVENUE ADJUSTMENTS — TRANSFERS

Sec. 185. DEPRECIATION FUND. Notwithstanding section 18.120, there is transferred from the depreciation fund created in section 18.120 for the purchase of replacement motor vehicles and additions to the fleet, to the general fund of the state for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount:

..... \$ 2,200,000

Sec. 186. GROUNDWATER PROTECTION FUND — AGRICULTURE MANAGEMENT ACCOUNT. Notwithstanding section 455E.11, subsection 2, paragraph “b”, there is transferred from the agriculture management account of the groundwater protection fund created pursuant to section 455E.11, subsection 2, paragraph “b”, to the general fund of the state during the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount from those moneys appropriated for the Leopold center for sustainable agriculture:

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

Sec. 187. JURY AND WITNESS FEES FUND. Notwithstanding section 602.1302, there is transferred from the revolving fund created in section 602.1302, for the purpose of paying jury and witness fees and mileage by the judicial branch, to the general fund of the state for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount:

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

Sec. 188. REBUILD IOWA INFRASTRUCTURE FUND. Notwithstanding section 8.57, subsection 5, paragraph “e”, there is transferred from wagering tax revenues, in excess of the moneys to be deposited in the general fund of the state, the vision Iowa fund, and the school infrastructure fund as provided in section 8.57, subsection 5, paragraph “e”, to the general fund of the state for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount:

..... \$ 15,496,600

²⁸ 2002 Iowa Acts, Regular Session, chapter 1171 herein

Sec. 189. ENVIRONMENT FIRST FUND. Notwithstanding section 8.57A, subsection 3, there is transferred from the environment first fund created in section 8.57A to the general fund of the state for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount:

..... \$ 18,445,000

Sec. 190. ENDOWMENT FOR IOWA'S HEALTH ACCOUNT. Notwithstanding 2001 Iowa Acts, chapter 174, section 1, there is transferred from the endowment for Iowa's health account of the tobacco settlement trust fund created in section 12E.12 to the general fund of the state for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount:

..... \$ 9,000,000

Sec. 191. 2002 Iowa Acts, House File 2613,²⁹ section 2, subsection 1, is amended to read as follows:

1. 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:

..... \$ 21,733,406

37,733,406

..... FTEs 5.00

Sec. 192. EFFECTIVE DATE. This division of this Act takes effect July 1, 2002.

DIVISION X
CAPITALS AND INFRASTRUCTURE
SCHOOL INFRASTRUCTURE FUND — SALES AND SERVICES TAX FUND

Sec. 193. SCHOOL INFRASTRUCTURE FUND.

1. Notwithstanding section 12.82, subsection 1, and section 292.2, there is appropriated from the school infrastructure fund created in section 12.82 to the director of revenue and finance for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount to be used for the purpose designated:

For deposit by the director into the school district accounts in the local sales and services tax fund, as created in section 422B.10, subsection 1, of those counties that have imposed a local sales and services tax for school infrastructure purposes under chapter 422E:

..... \$ 22,000,000

2. The portion of the amount appropriated in subsection 1 that shall be deposited into each school district account equals the ratio that the amount of local sales and services tax for school infrastructure purposes revenue deposited into that account during the fiscal year beginning July 1, 2001, and ending June 30, 2002, bears to the total amount of local sales and services tax for school infrastructure purposes revenue deposited into all accounts during the fiscal year beginning July 1, 2001, and ending June 30, 2002.

Sec. 194. COUNTY SALES AND SERVICES TAX FUND.

1. Notwithstanding section 422E.1, there is transferred to the general fund of the state from the school district accounts in the county sales and services tax fund, as created in section 422B.10, subsection 1, of those counties that have imposed a local sales and services tax for school infrastructure purposes under chapter 422E, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the following amount:

..... \$ 22,000,000

2. The portion of the amount transferred in subsection 1 that shall be transferred from each school district account equals the ratio that the amount of local sales and services tax for

²⁹ 2002 Iowa Acts, Regular Session, chapter 1172 herein

school infrastructure purposes revenue deposited into that account during the fiscal year beginning July 1, 2001, and ending June 30, 2002, bears to the total amount of local sales and services tax for school infrastructure purposes revenue deposited in all accounts during the fiscal year beginning July 1, 2001, and ending June 30, 2002.

REBUILD IOWA INFRASTRUCTURE FUND

Sec. 195. 2002 Iowa Acts, House File 2614,³⁰ section 10, subsection 1, unnumbered paragraph 1, is amended to read as follows:

For allocation to the university of northern Iowa for developing a 21st century learning initiative, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 800,000
0

Sec. 196. 2002 Iowa Acts, House File 2614,³¹ section 10, subsection 3, paragraph a, unnumbered paragraph 1, is amended to read as follows:

For historical site preservation grants, to be used for the restoration, preservation, and development of historical sites:

..... \$ 800,000
0

Sec. 197. 2002 Iowa Acts, House File 2614,³² section 10, subsection 3, paragraph b, is amended to read as follows:

b. 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
100,000

Sec. 198. 2002 Iowa Acts, House File 2614,³³ section 10, subsection 4, paragraphs a and b, are amended to read as follows:

a. For deposit in the local housing assistance program fund created in section 15.354, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 800,000
0

b. For deposit in the rural enterprise fund to be used for the dry fire hydrant and rural water supply education and demonstration project, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 100,000
0

*Sec. 199. 2002 Iowa Acts, House File 2614, section 10, subsection 5, paragraphs a and b, are amended to read as follows:

a. To provide resources for structural and technological improvements to local libraries, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 600,000
0*

b. For the community college vocational-technical technology improvement program authorized in chapter 260A, notwithstanding section 8.57, subsection 5, paragraph "c":

..... \$ 3,000,000
0

³⁰ 2002 Iowa Acts, Regular Session, chapter 1173 herein

³¹ 2002 Iowa Acts, Regular Session, chapter 1173 herein

³² 2002 Iowa Acts, Regular Session, chapter 1173 herein

³³ 2002 Iowa Acts, Regular Session, chapter 1173 herein

* Item veto; see message at end of the Act

Sec. 200. 2002 Iowa Acts, House File 2614,³⁴ section 10, subsection 5, paragraph c, unnumbered paragraph 1, is amended to read as follows:

For school improvement technology block grants, notwithstanding section 8.57, subsection 5, paragraph “c”, and notwithstanding section 256D.5, subsection 2, Code 2001:

..... \$ 5,770,600
0

Sec. 201. 2002 Iowa Acts, House File 2614,³⁵ section 10, subsection 5, paragraph d, is amended to read as follows:

d. For completion of the electronic data interchange project known as project EASIER, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 150,000
0

Sec. 202. 2002 Iowa Acts, House File 2614,³⁶ section 10, subsection 6, paragraph a, unnumbered paragraph 1, is amended to read as follows:

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
0

Sec. 203. 2002 Iowa Acts, House File 2614,³⁷ section 10, subsection 7, unnumbered paragraph 1, is amended to read as follows:

For automation of child abuse intake reports, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 154,267
0

Sec. 204. 2002 Iowa Acts, House File 2614,³⁸ section 10, subsection 9, paragraph a, unnumbered paragraph 1, is amended to read as follows:

For data warehouse projects, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 1,000,000
624,000

Sec. 205. 2002 Iowa Acts, House File 2614,³⁹ section 10, subsection 9, paragraph b, unnumbered paragraph 1, is amended to read as follows:

For additional technology projects, as determined by the department, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 545,733
0

Sec. 206. 2002 Iowa Acts, House File 2614,⁴⁰ section 10, subsection 11, unnumbered paragraph 1, is amended to read as follows:

To replace the voter registration system, notwithstanding section 8.57, subsection 5, paragraph “c”:

..... \$ 350,000
0

³⁴ 2002 Iowa Acts, Regular Session, chapter 1173 herein

³⁵ 2002 Iowa Acts, Regular Session, chapter 1173 herein

³⁶ 2002 Iowa Acts, Regular Session, chapter 1173 herein

³⁷ 2002 Iowa Acts, Regular Session, chapter 1173 herein

³⁸ 2002 Iowa Acts, Regular Session, chapter 1173 herein

³⁹ 2002 Iowa Acts, Regular Session, chapter 1173 herein

⁴⁰ 2002 Iowa Acts, Regular Session, chapter 1173 herein

ENVIRONMENT FIRST FUND

Sec. 207. 2002 Iowa Acts, House File 2614,⁴¹ section 20, subsection 1, paragraphs c and d, are amended to read as follows:

c. 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 emphasizing nitrogen, phosphorus, and manure management:

..... \$ 850,000
500,000

d. 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:

..... \$ 1,500,000
0

Sec. 208. 2002 Iowa Acts, House File 2614,⁴² section 20, subsection 1, paragraph e, unnumbered paragraph 1, is amended to read as follows:

To provide financial assistance for the establishment of permanent soil and water conservation practices:

..... \$ 7,500,000
3,500,000

Sec. 209. 2002 Iowa Acts, House File 2614,⁴³ section 20, subsection 1, paragraphs f, g, and h, are amended to read as follows:

f. 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
0

g. For deposit in the loess hills development and conservation fund created in section 161D.2:

..... \$ 750,000
0

~~Of the amount appropriated to the loess hills development and conservation fund in this paragraph "g", \$650,000 shall be allocated to the hungry canyons account, and \$100,000 shall be allocated to the loess hills alliance account.~~

h. For allocation to the southern Iowa development and conservation authority for protection of road structures:

..... \$ 250,000
0

Sec. 210. 2002 Iowa Acts, House File 2614,⁴⁴ section 20, subsection 2, unnumbered paragraph 1, is amended to read as follows:

For deposit in the brownfield redevelopment fund created in section 15.293 to provide assistance under the brownfield redevelopment program:

..... \$ 1,000,000
0

⁴¹ 2002 Iowa Acts, Regular Session, chapter 1173 herein

⁴² 2002 Iowa Acts, Regular Session, chapter 1173 herein

⁴³ 2002 Iowa Acts, Regular Session, chapter 1173 herein

⁴⁴ 2002 Iowa Acts, Regular Session, chapter 1173 herein

Sec. 211. 2002 Iowa Acts, House File 2614,⁴⁵ section 20, subsection 3, paragraphs a and d, are amended to read as follows:

a. 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
0

d. For the dredging of lakes, including necessary preparation for dredging, in accordance with the department's classification of Iowa lakes restoration report:

..... \$ 1,250,000
350,000

It is the intent of the general assembly that the department shall consider the following criteria for funding lake dredging projects as provided in this paragraph "d", and shall prioritize projects based on the following:

- (1) Documented efforts to address watershed protection, considering testing, conservation efforts, and amount of time devoted to watershed protection.
- (2) Protection of a natural resource and natural habitat.
- (3) Percentage of public access and undeveloped lakefront property.
- (4) Continuation of current projects partially funded by state resources to achieve department recommendations.

Sec. 212. 2002 Iowa Acts, House File 2614,⁴⁶ section 21, is amended to read as follows:

SEC. 21. 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, 2002, and ending June 30, 2003, the following amount, to be ~~allocated as provided in~~ used for the purposes designated, notwithstanding section 455A.19:

For reimbursement of political subdivisions of the state for property tax dollars lost to open space acquisitions based on the reimbursement formula provided in section 465A.4, for contractual obligations for capital projects relating to natural resource areas, and for maintenance of state lands owned by the department of natural resources:

..... \$ 10,000,000
2,000,000

~~The funds allocated to the land management and open spaces accounts form the appropriation in this section may be used for park operation purposes.~~

Sec. 213. EFFECTIVE DATES.

1. Except as otherwise provided in subsection 2, this division of this Act takes effect July 1, 2002.

2. The sections of this division of this Act appropriating moneys from the school infrastructure fund and transferring moneys from the county sales and services tax fund shall take effect on July 31, 2002, only if the treasurer of state determines that the appropriation from the school infrastructure fund of this division of this Act will not adversely affect the tax-exempt status of any outstanding bonds issued for purposes of the school infrastructure program established in section 292.2. The treasurer of state shall notify the Code editor of the treasurer's determination under this subsection by July 31, 2002.

DIVISION XI
STATE EMPLOYEES — PRINTED DOCUMENTS AND PROGRAM
ELIMINATION — FURLOUGHS — MISCELLANEOUS

Sec. 214. VACANT POSITIONS. Effective July 1, 2002, any full-time equivalent position that is authorized in an executive branch table of organization and has been vacant for 12 months or more shall be eliminated from the table of organization.⁴⁷

⁴⁵ 2002 Iowa Acts, Regular Session, chapter 1173 herein

⁴⁶ 2002 Iowa Acts, Regular Session, chapter 1173 herein

⁴⁷ See chapter 1001, §40, 46 herein

Sec. 215. EDUCATIONAL ASSISTANCE. For the fiscal year beginning July 1, 2002, and ending June 30, 2003, unless specifically authorized by a collective bargaining agreement, an executive or judicial branch agency shall not provide an employee with a subsidy or reimbursement for a class or other course of study leading to an advanced degree.

Sec. 216. PRINTED DOCUMENTS. Notwithstanding any provision of law or rule to the contrary, as a cost savings measure, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, the requirements in law or rule for the executive and judicial branches to issue reports, minutes, and other documents of an informational nature in printed form shall be suspended. **Such documents shall be provided in printed form only in response to an individual request and, to the extent possible, shall be made available by internet posting, electronic mail, or other electronic means in lieu of availability in printed form.**

Sec. 217. PROGRAM ELIMINATION COMMISSION.

1. A program elimination commission is established to review all programs and other functions funded in whole or part with state or local government revenues, including but not limited to general taxes and fees and special revenues such as gaming and road use tax revenues. The commission shall operate with the goal of identifying a 2 percent savings for the general fund of the state. The commission's duties shall include the following:

- a. Review of state and local government programs and other functions.
 - b. Consideration of sale of public assets or providing for performance of public functions on behalf of government by nongovernmental entities. The assets and functions considered shall include the state nursery, department of general services vehicle fleet, state medical library, prison farms, and alcoholic beverage warehouse.
 - c. Identification of programs or functions recommended for elimination or for performance by a nongovernmental entity.
 - d. Identification of public assets for sale.
 - e. Other duties assigned by the legislative council.
2. The program elimination commission shall consist of the following members:
- a. The auditor of state as a voting member.⁴⁸
 - b. Four voting members who have expertise with profit or nonprofit enterprise in evaluating projects and determining which projects should be continued or eliminated. Each of the following shall appoint one of the four voting members: the majority leader of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives.
 - c. One nonvoting member representing the executive branch appointed by the governor.
 - d. One nonvoting member representing the judicial branch appointed by the chief justice of the supreme court.
 - e. One nonvoting member representing the legislative branch appointed by the legislative council.

3. Staff support to the commission shall be provided by the research staffs of the senate and house of representatives, the legislative fiscal bureau, and the legislative service bureau. In addition, the commission may utilize other staff support made available to the commission.

4. The program elimination commission shall issue a report on or before December 31, 2002, to the governor, supreme court, and general assembly containing findings and recommendations fulfilling the commission's duties. The recommendations made by the commission shall be prepared in the form of a bill by the legislative service bureau. It is the intent of this section that the bill be referred to the committees on state government of the senate and the house of representatives. It is further the intent of this section that the general assembly shall bring the bill to a vote under a procedure or rule permitting no amendments except those of a purely corrective nature recommended by a committee on state government.

5. Unless otherwise continued by the legislative council or by law, the program elimination commission shall be dissolved on December 31, 2002.

* Item veto; see message at end of the Act

⁴⁸ See chapter 1001, §41, 46 herein

Sec. 218. JUDICIAL BRANCH — FURLOUGHS.

1. The appropriations from the general fund of the state to the judicial branch for operational costs for the fiscal year beginning July 1, 2002, and ending June 30, 2003, are reduced by the following amount:

..... \$ 2,201,399

2. In order to implement the reduction made in subsection 1, the judicial branch shall implement furloughs of judicial branch employees other than justices, judges, and magistrates or other cost reductions in a manner so as to produce cost savings equivalent to a furlough of one-half day per employee per calendar month.

3. As part of implementing the reduction made in subsection 1, notwithstanding the annual salary rates authorized for justices, judges, and magistrates in 2001 Iowa Acts, chapter 190, section 1, and 2002 Iowa Acts, House File 2623,⁴⁹ section 4, for the fiscal year beginning July 1, 2002, those salary rates shall be reduced by applying a 2.5 percent reduction to the portion of annual salary attributable to the period beginning on June 21, 2002, through June 19, 2003. Subsection 2 does not apply to justices, judges, and magistrates subject to this subsection.

4. Notwithstanding the uses listed in section 602.1304, subsection 2, paragraph “c”, the judicial branch may use not more than \$1,000,000 of the moneys available to the judicial branch in the enhanced court collections fund for the fiscal year beginning July 1, 2002, to supplant the reduction made in subsection 1 and thereby decrease the application of subsections 2 and 3. Any such decrease involving employee furloughs and salary reductions shall be applied proportionately between subsections 2 and 3.

LEGISLATIVE BRANCH — FURLOUGHS

Sec. 219. APPROPRIATIONS REDUCTION.

1. The appropriations made from the general fund of the state in section 2.12 to the general assembly for operational costs for the fiscal year beginning July 1, 2002, and ending June 30, 2003, shall be reduced by \$392,858. The reduction in this subsection shall be in addition to the reduction made in 2002 Iowa Acts, Senate File 2326,⁵⁰ section 168, as amended in division IX of this Act.

2. In order to implement the reduction made in subsection 1, the legislative branch shall implement furloughs of legislative branch employees other than members of the general assembly or other cost reductions in a manner so as to produce cost savings equivalent to a furlough of one-half day per employee per calendar month.

3. As part of implementing the reduction made in subsection 1, notwithstanding the annual salary rates authorized for members of the general assembly in section 2.10, the salary rates for such members shall be reduced by applying a 2.5 percent reduction to the portion of annual salary attributable to the period beginning June 21, 2002, through June 19, 2003, as if the members were all paid a salary under section 2.10, subsection 4, paragraph “a”. Subsection 2 does not apply to members of the general assembly.

4. As part of the reduction made in subsection 1, it is the intent of the general assembly to suspend the issuance of documents of an informational nature in printed form and the provision of a subsidy or reimbursement to an employee for a class or other course of study leading to an advanced degree.

EXECUTIVE BRANCH — FURLOUGHS

Sec. 220. EXECUTIVE BRANCH. The appropriations made from the general fund of the state to the departments and establishments of the executive branch, as defined in section 8.2, including but not limited to the appropriations to the state board of regents, for operational costs for the fiscal year beginning July 1, 2002, and ending June 30, 2003, are reduced by the following amount:

..... \$ 30,862,939

1. The department of management shall apply the reduction made in accordance with this

⁴⁹ 2002 Iowa Acts, Regular Session, chapter 1175 herein

⁵⁰ 2002 Iowa Acts, Regular Session, chapter 1171 herein

section in a manner so that the portion of an appropriation for operational costs is reduced in proportion to the amount that such costs in that appropriation bear to the total amount of all such costs in all appropriations from the general fund of the state to executive branch departments and establishments.

2. In order to implement the reduction made in this section, the departments and establishments shall implement furloughs for those employees whose compensation is paid from the general fund of the state or other cost reductions, in a manner to produce cost savings equivalent to a furlough of one-half day per employee per calendar month.

3. Notwithstanding the annual salary rates authorized for elective executive branch officials in 2000 Iowa Acts, chapter 1219, section 3, as part of implementing the reduction made in this section, for the fiscal year beginning July 1, 2002, the salary rates for such officials shall be reduced by applying a 2.5 percent reduction to the portion of annual salary attributable to the period beginning June 21, 2002, through June 19, 2003. Subsection 2 does not apply to elective executive branch officials subject to this subsection.

4. Notwithstanding the annual salaries established under 2001 Iowa Acts, chapter 190, section 3, as part of implementing the reduction made in this section, for the fiscal year beginning July 1, 2002, each of those salaries shall be reduced by applying a 2.5 percent reduction to the portion of the salary attributable to the period beginning June 21, 2002, through June 19, 2003. Subsection 2 does not apply to appointed executive branch officers subject to this subsection.

Sec. 221. IMPLEMENTATION OF FURLOUGHS. Furloughs implemented pursuant to this division shall not be implemented in a manner which results in more than 25 percent of the workforce within an agency division being on furlough at the same time.⁵¹

Sec. 222. 2001 Iowa Acts, chapter 176, section 20, unnumbered paragraph 2, is amended to read as follows:

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
		<u>600,860</u>

Sec. 223. 2001 Iowa Acts, chapter 176, section 21, unnumbered paragraph 2, is amended to read as follows:

For debt service for the Iowa communications network:

.....	\$	9,939,165
		<u>9,940,000</u>

Sec. 224. 2001 Iowa Acts, chapter 176, section 22, unnumbered paragraph 2, is amended to read as follows:

For debt service for the Iowa communications network:

.....	\$	1,465,835
		<u>1,465,443</u>

Sec. 225. 2001 Iowa Acts, chapter 176, section 24, unnumbered paragraph 2, is amended to read as follows:

For repayment of prison infrastructure bonds under section 16.177:

.....	\$	5,182,272
		<u>5,182,089</u>

Sec. 226. 2002 Iowa Acts, House File 2614,⁵² section 2, unnumbered paragraph 2, is amended to read as follows:

For allocation by the state board of regents to the state university of Iowa, the Iowa state

⁵¹ See chapter 1001, §43, 46 herein
⁵² 2002 Iowa Acts, Regular Session, chapter 1173 herein

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, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 9,151,609
9,127,635⁵³

Sec. 227. 2002 Iowa Acts, House File 2614,⁵⁴ section 3, unnumbered paragraph 2, is amended to read as follows:

For debt service for the Iowa communications network, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 12,855,000
13,044,784

Sec. 228. 2002 Iowa Acts, House File 2614,⁵⁵ section 4, unnumbered paragraph 2, is amended to read as follows:

For repayment of prison infrastructure bonds under section 16.177, notwithstanding section 12E.12, subsection 1, paragraph "b", subparagraph (1):

..... \$ 5,185,576
5,417,250

Sec. 229. Section 12E.12, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 8. With respect to the payment of certain debt service, the debt service to be paid shall be those installments of debt service on bonds selected by the treasurer of state and identified in the authority's tax certificate delivered at the time of the issuance of the bonds issued pursuant to this chapter, or as otherwise selected by the treasurer of state. Once the bonds and the installments of debt service thereon are so selected, that debt service and bonds shall not be paid, or provided to be paid, from any other source including the state or any of its departments or agencies.⁵⁶

*Sec. 230. Section 260G.4B, subsection 1, Code Supplement 2001, as amended by 2002 Iowa Acts, House File 2623, section 30, 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, three million dollars in the fiscal year beginning July 1, 2001, ~~three~~ four million two hundred thousand dollars in the fiscal year beginning July 1, 2002, and six million dollars in the fiscal year beginning July 1, 2003, 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

⁵³ See chapter 1001, §44, 46 herein

⁵⁴ 2002 Iowa Acts, Regular Session, chapter 1173 herein

⁵⁵ 2002 Iowa Acts, Regular Session, chapter 1173 herein

⁵⁶ See chapter 1001, §35, 46 herein

* Item veto; see message at end of the Act

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. 231. Section 422.11A, Code 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The new jobs tax credit authorized in this section shall only apply to an agreement authorized under chapter 260E which was finalized prior to July 1, 2002.*

*Sec. 232. Section 422.33, subsection 6, Code Supplement 2001, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The new jobs tax credit authorized in this subsection shall only apply to an agreement authorized under chapter 260E which was finalized prior to July 1, 2002.*

Sec. 233. EFFECTIVE DATE.

1. Except as provided in subsection 2, this division of this Act takes effect July 1, 2002.
2. a. The sections of this division of this Act providing for salary reductions in appropriations to the judicial, legislative, and executive branches take effect June 21, 2002.
- b. The sections of this division of this Act amending 2001 Iowa Acts, chapter 176, being deemed of immediate importance, take effect upon enactment.

DIVISION XII
CORRECTIVE AMENDMENTS
GENERAL PROVISIONS

Sec. 234. Section 16.131, subsection 1, Code 2001, is amended to read as follows:

1. The authority shall cooperate with the department of natural resources in the creation, administration, and financing of the Iowa ~~sewage treatment~~ water pollution control and drinking water facilities financing program established in sections 455B.291 through 455B.299.

Sec. 235. Section 16.132, subsection 1, paragraph d, Code 2001, is amended to read as follows:

- d. The amounts payable to the department by ~~municipalities or water systems~~ eligible entities pursuant to loan agreements with ~~municipalities or water systems~~ eligible entities.

Sec. 236. Section 124.401A, Code 2001, as amended by 2002 Iowa Acts, House File 2623,⁵⁷ section 25, is affirmed and reenacted.

Sec. 237. Section 124.409, Code 2001, as amended by 2002 Iowa Acts, House File 2623,⁵⁸ section 26, is affirmed and reenacted.

Sec. 238. Section 225C.5, subsection 1, paragraph d, Code 2001, as amended by 2002 Iowa Acts, House File 2430,⁵⁹ section 1, is amended to read as follows:

- d. One member shall be ~~either~~ an active board member of an agency serving persons with a developmental disability selected from nominees submitted by the Iowa association of community providers.

* Item veto; see message at end of the Act

⁵⁷ 2002 Iowa Acts, Regular Session, chapter 1175 herein

⁵⁸ 2002 Iowa Acts, Regular Session, chapter 1175 herein

⁵⁹ 2002 Iowa Acts, Regular Session, chapter 1146 herein

Sec. 239. Section 237.16, subsection 3, Code 2001, is amended to read as follows:

3. An employee of the department or of the department of inspections and appeals, an employee of a child-placing agency, an employee of an agency with which the department contracts for services for children under foster care, a foster parent providing foster care, or an employee of the district court is not eligible to serve on the state board. However, the judicial branch employee or judicial officer appointed from nominees submitted by the judicial branch in accordance with subsection 1 shall be eligible to serve on the state board.

Sec. 240. Section 321J.22, subsection 2, paragraph d, Code 2001, as amended by 2002 Iowa Acts, House File 2515,⁶⁰ section 37, is amended to read as follows:

d. The department of education shall establish reasonable fees to defray the expense of obtaining classroom space, instructor salaries, and class materials for courses offered both by community colleges and by substance abuse treatment programs licensed under chapter 125, and for administrative expenses incurred by the department of education in implementing subsection 5.

Sec. 241. Section 455B.133, subsection 10, as enacted by 2002 Iowa Acts, Senate File 2325⁶¹, section 45, is amended to read as follows:

10. Adopt rules allowing a city to conduct a controlled burn of a demolished building subject to the same restrictions as are in effect for fire fighting training fires. The rules shall include a provision that a city may undertake no more than three controlled burns in every overlapping six-tenths-of-a-mile-radius circle every three years. The rules shall prohibit a controlled burn of a demolished building in Cedar Rapids, Marion, Hiawatha, Council Bluffs, Carter Lake, Des Moines, West Des Moines, Clive, Windsor Heights, Urbandale, Pleasant Hill, Buffalo, Davenport, Mason City or any other area where area-specific state implementation plans require the control of particulate matter.

Sec. 242. Section 456A.17, unnumbered paragraph 7, Code 2001, is amended to read as follows:

The department may apply for a loan for the construction of facilities for the collection and treatment of waste water under the state ~~sewage treatment works~~ water pollution control and drinking water facilities financing program as established in sections 455B.291 through 455B.299. In order to provide for the repayment of a loan granted under the financing program, the commission may impose a lien on not more than ten percent of the annual revenues from user fees and related revenue derived from park and recreation areas under chapter 461A which are deposited in the state conservation fund. If a lien is established as provided in this paragraph, repayment of the loan is the first priority on the revenues received and dedicated for the loan repayment each year.

Sec. 243. Section 724.26, Code 2001, as amended by 2002 Iowa Acts, House File 2363,⁶² section 4, and as amended by 2002 Iowa Acts, House File 2623,⁶³ section 94, is affirmed and reenacted.

Sec. 244. 2002 Iowa Acts, House File 2615,⁶⁴ section 4, unnumbered paragraph 3, is amended to read as follows:

Notwithstanding section 8.33, moneys appropriated under this section that are unobligated or unencumbered at the end of the fiscal year beginning ~~June 30~~ July 1, 2002, and ending June 30, 2003, shall not revert, but shall remain available for the specific purposes designated in this section until June 30, 2004.

Sec. 245. 2002 Iowa Acts, House File 2623,⁶⁵ section 72, is amended to read as follows:

SEC. 72. EFFECTIVE DATE. The provision of this division of this Act amending 2001 Iowa

⁶⁰ 2002 Iowa Acts, Regular Session, chapter 1140 herein

⁶¹ 2002 Iowa Acts, Regular Session, chapter 1162 herein

⁶² 2002 Iowa Acts, Regular Session, chapter 1055 herein

⁶³ 2002 Iowa Acts, Regular Session, chapter 1175 herein

⁶⁴ 2002 Iowa Acts, Regular Session, chapter 1174 herein

⁶⁵ 2002 Iowa Acts, Regular Session, chapter 1175 herein

Acts, chapter 191, section 14, relating to the department of human services exceeding its budget target for group foster care by up to twenty percent in fiscal year 2001-2002, being deemed of immediate importance, takes effect upon enactment.

Sec. 246. 2002 Iowa Acts, Senate File 2275,⁶⁶ sections 13 and 182, are repealed.

ANIMAL FEEDING OPERATIONS

Sec. 247. Section 455B.127, subsection 3, as enacted by 2002 Iowa Acts, Senate File 2293,⁶⁷ section 6, subsection 3, is amended to read as follows:

3. Moneys in the compliance fund are appropriated to the department exclusively to pay the expenses of the department in administering and enforcing the provisions of division II, part 2, and division III, part 1, subpart A B, as necessary to ensure that animal feeding operations comply with all applicable requirements of those provisions, including rules adopted or orders issued by the department pursuant to those provisions. The moneys shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this subsection. The department shall not transfer moneys from the compliance fund's assessment account to another fund or account, including but not limited to the fund's general account.

Sec. 248. Section 455B.161, subsection 22, Code 2001, is amended by striking the subsection.

Sec. 249. Section 455B.171, subsection 13, Code 2001, is amended by striking the subsection.

Sec. 250. Section 455B.200, subsection 3, as enacted by 2002 Iowa Acts, Senate File 2293,⁶⁸ section 27, is amended to read as follows:

3. The department and the attorney general shall enforce the provisions of this chapter in the same manner as provided in division I, unless otherwise provided in this ~~section~~ chapter.

Sec. 251. Section 455B.200A, subsection 1, unnumbered paragraph 1, as enacted by 2002 Iowa Acts, Senate File 2293,⁶⁹ section 28, is amended to read as follows:

The department shall approve or disapprove applications for permits for the construction, including the expansion, of confinement feeding operation structures, as provided by rules adopted pursuant to this chapter. The department's decision to approve or disapprove a permit for the construction of a confinement feeding operation structure shall be based on whether the application is submitted according to procedures required by the department and the application meets standards established by the department. A person shall not begin construction of a confinement feeding operation structure requiring a permit under this section, unless the department first approves the person's application and issues to the person a construction permit. The department shall provide conditions for requiring when a person must obtain a construction permit.

Sec. 252. Section 455B.200B, subsection 5, paragraph a, as enacted by 2002 Iowa Acts, Senate File 2293,⁷⁰ section 32, is amended to read as follows:

a. The department shall designate by rule each one hundred year floodplain in this state according to the location of the one hundred year floodplain. A person shall not be prohibited from constructing a confinement feeding operation structure on a one hundred year floodplain unless the one hundred year floodplain is designated by rule in accordance with this subsection.

Sec. 253. Section 455B.200B, subsection 5, paragraph b, subparagraphs (2) and (3), as enacted by 2002 Iowa Acts, Senate File 2293,⁷¹ section 32, are amended to read as follows:

(2) The department shall provide in its declaratory order or its approval or disapproval of

⁶⁶ 2002 Iowa Acts, Regular Session, chapter 1119 herein

⁶⁷ 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁶⁸ 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁶⁹ 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁷⁰ 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁷¹ 2002 Iowa Acts, Regular Session, chapter 1137 herein

a construction permit application a determination regarding whether the confinement feeding operation structure is to be located on a one hundred year floodplain, whether the confinement feeding operation structure may be constructed at the location, and any conditions for the construction.

(3) This paragraph “b” is repealed on the effective date that rules are adopted by the department pursuant to paragraph “a”. The department shall provide a caption on the adopted rule as published in the Iowa administrative bulletin as provided in section 17A.4, stating that this paragraph is repealed as provided in this subparagraph ~~subdivision~~. The director of the department shall deliver a copy of the adopted rule to the Iowa Code editor.

Sec. 254. Section 455B.200C, subsection 2, paragraph c, as enacted by 2002 Iowa Acts, Senate File 2293,⁷² section 33, is amended to read as follows:

c. If a construction permit is required pursuant to section 455B.200A for the construction of three or more confinement feeding operation structures that include a formed manure storage structure, the ~~contractor~~ person responsible for constructing the formed manure storage structure must provide that the construction of the formed manure storage structure will not impede drainage through established drainage tile lines which cross property boundary lines unless measures are taken to reestablish the drainage prior to completion of construction.

Sec. 255. Section 455B.200E, subsection 3, paragraph b, as enacted by 2002 Iowa Acts, Senate File 2293,⁷³ section 35, is amended to read as follows:

b. The board must conduct an evaluation of the application using the master matrix as provided in section 455B.200F. The board’s recommendation may be based on the master matrix as provided or may be based on comments under this section regardless of the results of the master matrix.

Sec. 256. Section 455B.203, subsection 2B, paragraph b, as enacted by 2002 Iowa Acts, Senate File 2293,⁷⁴ section 38, is amended to read as follows:

b. The department shall not file a construction design statement as provided in section 455B.200C, unless the owner of the confinement feeding operation structure submits an original manure management plan together with the construction design statement. The construction design statement and manure management plan may be submitted as part of an application for a construction permit as provided in section 455B.200A.

Sec. 257. Section 455B.203, subsection 3, paragraph a, subparagraph (2), unnumbered paragraph 1, as enacted by 2002 Iowa Acts, Senate File 2293,⁷⁵ section 39, is amended to read as follows:

Subparagraph subdivisions (b) through (e) and this paragraph are repealed on the date that any person who has submitted an original manure management plan prior to April 1, 2002, is required to submit a manure management plan update which includes a phosphorus index as provided in subparagraph subdivision ~~(e)~~ (e), subparagraph subdivision part (i). The department shall publish a notice in the Iowa administrative bulletin published immediately prior to that date, and the director of the department shall deliver a copy of the notice to the Iowa Code editor.

Sec. 258. 2002 Iowa Acts, Senate File 2293,⁷⁶ section 66, is amended to read as follows:

SEC. 66. INTERIM COUNTY PARTICIPATION AND CONTESTED DECISIONS REPEAL. The section of this Act providing for interim county participation in the approval of applications for construction permits for confinement feeding operation structures is repealed March 1, 2003, and including provisions relating to the rights of applicants’ applicants and boards of supervisors to contest departmental decisions. However, the provisions of the section shall continue to apply to applications received by a county board of supervisors prior to March 1, 2003.

⁷² 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁷³ 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁷⁴ 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁷⁵ 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁷⁶ 2002 Iowa Acts, Regular Session, chapter 1137 herein

Sec. 259. 2002 Iowa Acts, Senate File 2293,⁷⁷ section 68, subsection 1, paragraph c, is amended to read as follows:

c. Chapter 455B, division III, part 1, subpart A B, as enacted in this Act, with the exception of section 455B.200, as amended by this Act, and section 455B.207, as enacted by this Act, shall be transferred to new chapter 456D, as subchapter 3.

Sec. 260. 2002 Iowa Acts, Senate File 2293,⁷⁸ section 68, is amended by adding the following new subsections:

NEW SUBSECTION. 3. The Code editor shall transfer Code chapter 460A to be part of Code chapter 455A or to be a new Code chapter.

NEW SUBSECTION. 4. When transferring and consolidating provisions as provided in this section, the Code editor may reorganize the provisions provided in this section in a manner other than that provided in this section in order to enhance their readability. The Code editor shall publish in the 2003 Code the provisions of 2002 Iowa Acts, Senate File 2293,⁷⁹ designated for codification, regardless of the effective date of the provisions.

Sec. 261. 2002 Iowa Acts, Senate File 2293,⁸⁰ section 70, subsection 1, paragraph b, is amended to read as follows:

b. The department has not received evidence that an applicant or person submitting or required to submit a manure management plan as provided in paragraph "a" of this subsection 2, has incurred commitments based on a reliance of the law as the law existed on March 31, 2002. The commitments must constitute a legal obligation for performance by the person to construct a confinement feeding operation structure. The applicant or other person required to submit the evidence to the department must submit such evidence not later than twenty-one days after the ~~effective date~~ enactment of this Act.

Sec. 262. EFFECTIVE DATES.

1. Except as otherwise provided in subsection 2, this division of this Act takes effect July 1, 2002.

2. a. The section of this division of this Act amending 2002 Iowa Acts, House File 2623,⁸¹ section 72, being deemed of immediate importance, takes effect upon enactment.

b. The sections of this division of this Act amending sections 455B.127, 455B.161, 455B.171, 455B.200, 455B.200A, 455B.200B, and 455B.203, as enacted by 2002 Iowa Acts, Senate File 2293,⁸² and amending 2002 Iowa Acts, Senate File 2293,⁸³ being deemed of immediate importance, take effect upon enactment.

c. The sections of this division of this Act amending sections 455B.200C and 455B.200E, as enacted by 2002 Iowa Acts, Senate File 2293,⁸⁴ take effect on March 1, 2003.

DIVISION XIII DRUG UTILIZATION REVIEW COMMISSION

Sec. 263. NEW SECTION. 249A.32 IOWA MEDICAL ASSISTANCE DRUG UTILIZATION REVIEW COMMISSION — CREATED.

1. An Iowa medical assistance drug utilization review commission is created within the department. The commission membership, duties, and related provisions shall comply with 42 C.F.R. pt. 456, subpt. K.

2. In addition to any other duties prescribed, the commission shall make recommendations to the council on human services regarding strategies to reduce state expenditures for prescription drugs under the medical assistance program excluding provider reimbursement rates. The commission shall make initial recommendations to the council by October 1, 2002.

⁷⁷ 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁷⁸ 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁷⁹ 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁸⁰ 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁸¹ 2002 Iowa Acts, Regular Session, chapter 1175 herein

⁸² 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁸³ 2002 Iowa Acts, Regular Session, chapter 1137 herein

⁸⁴ 2002 Iowa Acts, Regular Session, chapter 1137 herein

Following approval of any recommendation by the council on human services, the department shall include the approved recommendation in a notice of intended action under chapter 17A and shall comply with chapter 17A in adopting any rules to implement the recommendation. The department shall seek any federal waiver necessary to implement any approved recommendation. The strategies to be considered for recommendation by the commission shall include at a minimum all of the following:

- a. Development of a preferred drug formulary pursuant to 42 U.S.C. § 1396r-8.
- b. Negotiation of supplemental rebates from manufacturers that are in addition to those required by Title XIX of the federal Social Security Act. For the purposes of this paragraph, "supplemental rebates" may include, at the department's discretion, cash rebates and other program benefits that offset a medical assistance expenditure. Pharmaceutical manufacturers agreeing to provide a supplemental rebate as provided in this paragraph shall have an opportunity to present evidence supporting inclusion of a product on any preferred drug formulary developed.
- c. Disease management programs.
- d. Drug product donation programs.
- e. Drug utilization control programs.
- f. Prescriber and beneficiary counseling and education.
- g. Fraud and abuse initiatives.
- h. Pharmaceutical case management.
- i. Services or administrative investments with guaranteed savings to the medical assistance program.
- j. Expansion of prior authorization for prescription drugs and pharmaceutical case management under the medical assistance program.
- k. Any other strategy that has been approved by the United States department of health and human services regarding prescription drugs under the medical assistance program.

Sec. 264. EMERGENCY RULES. The department of human services may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement section 249A.32 as created in this division of this Act, and the rules shall become effective immediately upon filing or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 5, and section 17A.8, subsection 9, shall be applicable to a delay imposed under this section, notwithstanding a provision in those sections making them inapplicable to section 17A.5, subsection 2, paragraph "b". Any rules adopted in accordance with this section shall also be published as notice of intended action as provided in section 17A.4.

Sec. 265. TRANSITION PROVISIONS. The department of human services shall continue to contract with the peer review organization, with which the department held a contract to carry out the duties of the Iowa Medicaid drug utilization review commission prior to the effective date of this division of this Act in order to carry out the duties of the commission after that date.

The Iowa Medicaid drug utilization review commission existing on the effective date of this division of this Act shall act as the Iowa medical assistance drug utilization review commission as created in this division of this Act.

Sec. 266. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved June 12, 2002, with exceptions noted.

THOMAS J. VILSACK, Governor

Dear Secretary Culver:

I hereby transmit House File 2627, an Act addressing public funding provisions and properly related matters by making, reducing, and transferring appropriations, adjusting other expenditures for the fiscal year beginning July 1, 2002, and including other appropriations, cooperative tax credits, and effective and retroactive applicability date provisions.

With the Revenue Estimating Conference's recent action to decrease general fund resources available to the State by \$212.5 million in fiscal year 2003, I took responsible action in calling a special session to take the necessary steps to balance the budget. I had offered a reasonable alternative plan that would have protected more of the services provided to Iowans. However, the legislative leaders in the majority party rejected my plan. This left me with two options — sign the bill as passed by the Legislature or have no budget in place for the new fiscal year that starts in just a few weeks. Clearly, it would be irresponsible to shut down state government. Therefore, I have no alternative but to sign this legislation.

Despite the extraordinary challenge of a national recession, I am pleased that we were successful in our administration's fight to preserve some key priorities of Iowa families, including improving learning by reducing class sizes and increasing teacher quality, and preserving access to health care for our children and senior citizens. I am also pleased to restore \$600,000 to the Enrich Iowa Libraries program. A reduction in funding to this important initiative would stifle the progress this administration has made in improving educational opportunities for Iowa's children.

However, this bill has several provisions which I cannot support. I oppose the Republicans' continuous assault on our senior citizens by attempting to raise prescription drug costs on Iowans in need. I have vetoed their attempt to double the copayments on prescription drugs in the past, and I will do so again. The burdens created for some Iowa families and seniors are simply unacceptable.

House File 2627 is, therefore, signed on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the items designated as Section 3, subsection 7 in its entirety, Section 9, subsection 3 in its entirety, and Section 21, subsection 2 in its entirety. These sections require Commerce, Racing and Gaming and the Lottery to report Accountable Government Act activities by January 13, 2003. With the reduction of State employees, this would create an unnecessary requirement. Such reports should be completed per the implementation procedures as set forth in Iowa Code chapter 8E.

I am unable to approve the items designated as Section 5, subsection 5 in its entirety, Section 13, subsection 2 in its entirety, Section 26, subsection 2 in its entirety, and Section 28 in its entirety. These sections require the Departments of General Services, Personnel and Information Technology to identify duplicative situations within State Government and report by September 1, 2002. Such activities should be conducted on an enterprise wide basis as set forth in Section 11, subsection 3 of the bill.

I am unable to approve the item designated as Section 26, subsection 1 in its entirety. This item requires the Information Technology Department to notify the Department of Management prior to any fee increases. The Department of Management is then to notify the Legislative Fiscal Bureau. The two departments will work cooperatively to examine such fee or rate increases, without the necessity of this legislative mandate.

I am unable to approve the item designated as a portion of Section 30. This would increase the maximum possible award to an employee for a cost saving idea from \$2,500 to \$25,000. While employee suggestions are encouraged and indeed welcomed, the State's current financial situation precludes such an increase.

I am unable to approve the item designated as Section 49, subsection 3. Last year the Legislature approved and I signed into law the Accountable Government Act. This legislation established a comprehensive, enterprise-wide process for setting program goals and establishing results measurements. This Section would create redundancies in goals and results measurements for the Department of Economic Development.

I am unable to approve the items designated as Section 59, subsection 2, paragraph b, Section 60, subsection 2, paragraph b and Section 61, subsection 2, paragraph b. These sections would require any business or individual receiving benefits from specified Regent programs to have a commercially viable service or product. Many of the proposals and ideas brought to these programs have not been developed to a stage of commercialization. To apply this criteria at such an early stage of development would be contradictory to the very services these programs are designed to provide.

I am unable to approve the item designated as Section 64, subsection 3. The Department of Workforce Development has identified federal funds that can be used to collect labor market information. Monies from the penalty and interest account can and have been used to support services in the workers' compensation and labor divisions of the Department. The budget cuts sustained by these divisions could have an adverse impact to the safety of Iowa's citizens and its workforce. The director of the Department of Workforce Development currently has the authority to reassign unused penalty and interest funds. We must maintain that flexibility to reallocate dollars when needed to ensure the safety of Iowans.

I am unable to approve the item designated as Section 72. Expenditure information for the executive branch agencies of state government is currently available to the economic development appropriation subcommittee and the Legislative Fiscal Bureau on a daily basis through the Iowa Financial and Accounting System. The Legislative Fiscal Bureau also has the authority to request expenditure information from Regent universities. The reporting requirement in this section would duplicate existing data and place an unneeded requirement on limited staff resources.

I am unable to approve the item designated as Section 73. The Department of Workforce Development has begun a multi-phased project to upgrade the electronic unemployment insurance processing system. This upgrade will address the reporting and transmitting problems identified in this section of the bill. I concur that this problem must be addressed; however, the complexity and magnitude of the needed upgrade cannot be accomplished and implemented by July 1, 2002.

I am unable to approve the item designated as a portion of Section 102, subsection 2, paragraph d. This language requires new reporting every other month to legislators on net budgeting. This section would require additional staff resources at a time when funding for staff has been severely reduced.

I am unable to approve the item designated as Section 106 in its entirety. Last year the Legislature approved and I signed into law the Accountable Government Act. This legislation established a comprehensive, enterprise-wide process for setting program goals and establishing results measurements. This Section would create redundancies in goals and results measurements for these departments.

I am unable to approve the item designated as Section 108 in its entirety. This section would repeal the enabling language for the Community Grant Fund and end the program. Although no money is appropriated for the Community Grant Fund in the coming fiscal year, we should maintain the possibility of funding for this program when more resources are available.

I am unable to approve the item designated as a portion of Section 111, subsection 6. This language requires the Department of Human Services to consult with the Welfare Reform Council and legislative members prior to implementing rules related to the Family Investment Program as required by the federal government. This mandated consultation process may unduly delay the rules where federally required.

I am unable to approve the item designated as Section 115, subsection 8 in its entirety. This language continues language from prior years related to the number of beds allowed in a community setting for persons with mental retardation. With the implementation of home and community based waivers, this language is no longer needed.

I am unable to approve the item designated as Section 117, subsection 1 in its entirety. This subsection would require the Department of Human Services to seek input and recommendations from legislative members prior to entering into or extending a managed care contract for mental health and 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. This 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 119, subsection 5 in its entirety. This language requires additional notice to legislators if additional federal child care funds are received. This section would require additional staff resources when funding for staff has been severely reduced.

I am unable to approve the item designated as Section 120, subsection 1, unnumbered paragraph 2. This item requires the Department of Human Services to submit a plan for relocating males currently at the Toledo juvenile home, a female-only institution. This language has been included in the appropriation bill for the past three years; however, the Legislature has failed to fund the proposal. My recommendation in a previous year had included funding for this change, however the Legislature chose to use that funding instead for other programs.

I am unable to approve the item designated as Section 121, subsection 9 in its entirety. This language requires the Department of Human Services and juvenile court officers to develop criteria for intensive tracking and supervision of delinquent youth. These criteria were developed two years ago in response to this language; thus, this language is no longer needed.

I am unable to approve the item designated as Section 121, subsection 18. This directs the Department of Human Services to privatize the administration of foster care and adoption programs. Given the fact that no additional funds were provided for this purpose and staffing has been severely reduced, implementation of this section is not feasible.

I am unable to approve the item designated as a portion of Section 132, subsection 2. This item requires the Department of Human Services to submit proposed legislation to correct Code references related to service areas. This appears to be the realm of the Legislative Fiscal Bureau or Code Editor rather than the Department of Human Services, especially at a time when the Department's resources have been severely reduced.

I am unable to approve the items designated as Section 135, subsections 2 and 3 in their entirety. This language provides legislative intent for items already in progress or that appear to infringe on executive branch management duties. It is preferable that the Department of Human Services be allowed to have flexibility in this area.

I am unable to approve the item designated as Section 137, subsection 1, paragraph b, subparagraph (3) in its entirety. The provision would increase the cost of prescription drugs for Iowans most in need. This is an additional financial burden on a group with very little or no income. Additionally, if the individuals do not have the funds, the pharmacist is required to dispense the drug anyway. This could create an additional reluctance on the part of pharmacists to handle Medicaid patients.

I am unable to approve the items designated as Section 138 in their entirety. This section would exempt a currently closed nursing facility in Dows from the Certificate of Need approval process and from meeting current life safety code and physical plant requirements, if the facility reopens by July 1, 2004. Allowing this section would put the state at risk for liability in the

event of any physical plant or clinical operation problems. Excluding a facility from these requirements could place vulnerable residents at health and safety risks and would set a dangerous precedent.

I am unable to approve the items designated as Section 141 and Section 151, subsection 2, paragraph c in their entirety. This language directs the department to reduce administrative requirements for the targeted case management waiver. These requirements are needed to obtain federal approval and support documentation for claims for federal funds under the waiver.

I am unable to approve the items designated as Section 142 and Section 151, subsection 2, paragraph f in their entirety. This provision would require nursing facilities to be certified for Medicaid and Medicare — even if the facility does not take Medicare patients. I have previously directed the Department of Human Services to prepare administrative rules to address dual certification for all applicable nursing facilities, thus requiring certification of a nursing facility for both Medicare and Medicaid when they are, in fact, providing services for clients of each program. This directive avoids unnecessary additional administrative cost for dual certification that would be borne by the state, over 62 nursing facilities, and Iowans who receive nursing home services.

I am unable to approve the language in Section 165, subsection 2, unnumbered paragraph 2. This section would limit the amount of reimbursement in relation to State costs from riverboat and racetrack enforcement costs. Sections 167, 168, and 169 clearly change the reimbursement rate from riverboats and racetracks enforcement costs to 100% of the related expenses.

I am unable to approve Section 199, paragraph a. This section would de-appropriate \$600,000 from the FY 2003 Rebuild Iowa Infrastructure fund appropriation for the Enrich Iowa Libraries program. Quality libraries are a key component of the educational infrastructure for Iowa's children. A reduction in funding would stifle the progress this administration has made in improving educational opportunities for Iowa's children.

I am unable to approve Section 215. The Administration has made every attempt to provide quality educational opportunities for all Iowans. This section denies state employees the opportunity to access educational assistance. I believe this option should be maintained to further enhance the knowledge and skills of our workforce.

I am unable to approve the designated portion of Section 216. While I understand the need to reduce paper within state government, I feel that there are times when making state information available to the public in paper format is appropriate. An example would be making Iowa tourism brochures available at welcome centers, tourism booths, and other appropriate venues.

I am unable to approve Section 230. This section would increase the available yearly allocation of tax credits for the Accelerated Career Education program (ACE). I recognize that ACE programs allow education and business entities to provide students with valuable educational curriculum designed to meet the needs of specific industry sectors. I support the expansion of these programs; however, it should not be accomplished through the elimination of other vital economic development tools. I look forward to working with the Legislature to identify opportunities to increase funding for ACE programs in the next legislative session.

I am unable to approve Sections 231 and 232. These sections are designed to eliminate the New Jobs Tax Credit for businesses to raise the cap for tax credits for the Accelerated Career Education programs at Community Colleges. Sections 231 and 232 would eliminate a valuable tool used by communities and developers to encourage business growth and expansion. The elimination of the New Jobs Tax Credit would adversely affect the economic development packages of many communities.

For the above reasons, I respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2627 are hereby approved as of this date.

Sincerely,
THOMAS J. VILSACK, *Governor*

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